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PERSONAL INSTRUCTIONS
Mission

TO THE
to

England

DIPLOMATIC AGENTS OF THE UNITED STATES

IN
in 1893

FOREIGN COUNTRIES.
Read



1897

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1885.

United States. Dept. of State
11

PERSONAL INSTRUCTIONS
TO THE
DIPLOMATIC AGENTS OF THE UNITED STATES
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DEPARTMENT OF STATE,

Washington, *18th April*, 189*3*.

Thomas F. Bayard, Esq.

Ambassador of the United States at *London* :

SIR: I transmit herewith the general personal instructions which have been prescribed by the President for the information and government of the Diplomatic Agents of the United States abroad. They are intended to supersede those which have been heretofore issued by this Department, including diplomatic circulars dated prior to March 15, 1884, and are to be carefully observed in all respects.

I am, sir, your obedient servant,

W. D. Graham ³

SPECIAL NOTICE TO DIPLOMATIC AGENTS.

1. The following regulations are prescribed for the information and guidance of Diplomatic Agents in the discharge of their official duties. It is expected that they will be carefully examined before applying to the Department of State for instructions. When, however, after an examination of these regulations and any other instructions, special or otherwise, which they may have received, Diplomatic Officers shall find themselves without directions how to act in any case, they may write to the Department on the subject. Otherwise they will be expected to act upon the regulations herein contained, and upon such other special instructions as they may from time to time receive.

When instructions may be asked.

Article I.—Receiving Instructions.

2. After receiving his commission and filing the prescribed oath in the Department, the Diplomatic Agent will be furnished with the following papers:

- a.* A sealed letter of credence signed by the President and addressed to the head of the state to which the Agent is sent. In the case of a commissioned Chargé d’Affaires the letter of credence will be addressed by the Secretary of State to the Minister for Foreign Affairs.
- b.* An open office-copy of the letter of credence.
- c.* A special official passport for himself, his family, and suite.
- d.* A copy of the Annual Register of the Department of State.
- e.* A letter of credit upon the bankers of the United States in London, whenever he is directed to draw his salary and contingent allowances from that source. This letter of credit will be in duplicate, and the Diplomatic Agent will attach his signature to both the original and the duplicate, returning the former to the Department of State and retaining the latter for his personal security and convenience.
- Diplomatic Agents not receiving their salary and contingent allowances through the London bankers will be suitably instructed as to the mode of drawing them.
- f.* A dated and signed copy of these printed Instructions, with any circular instructions modifying them.
- g.* A copy of the printed Consular Regulations and of any circular instructions, modificatory or explanatory thereof, on points touching the business of a mission.

Papers furnished to the agent.

3. The Diplomatic Agent will also receive such general and special instructions as the Secretary of State may deem it necessary to give him for his guidance in regard to pending or new subjects of negotiation.

General and special instructions.

4. It is usually expected that the newly-appointed Agent will come to Washington to confer with the Secretary of State upon matters connected with his mission, although special circumstances may require or permit this formal visit to be omitted.

Visit to Washington to receive instructions.

Examination of previous correspondence of the mission.

5. During such visit the Agent will familiarize himself, by inspection of the correspondence on file in the Department of State, with the general state of the business of the mission to which he is appointed, and the condition of pending questions with the Government to which he is accredited.

Compensation during instruction period.

6. For the purpose of receiving these general and special instructions, and also to admit of preparation for the journey to the Agent's post of duty, salary may be allowed for a period not to exceed thirty days. It is not, however, intended that the whole of this period shall in every case be granted and availed of as a right, but only so far as may be necessary under the circumstances of each case.

Revised Statutes, sec. 1740.

Accounts for instruction salary.

7. Accounts for instruction salary should, if possible, be rendered to the Department of State and adjusted prior to the departure of the Agent for his post.

Instruction salary not paid for more than thirty days.

8. There is no authority of law to allow a newly-appointed Diplomatic Agent salary for any time (beyond the instruction period of thirty days) during which he may be detained in this country awaiting means of transit or by reason of his private affairs.

Revised Statutes, sec. 1740.

No allowance for outfit, &c.

9. No advance of salary or allowance in the nature of an outfit is permitted by law; neither is transportation, nor any payment in lieu thereof, furnished by the Government.

Revised Statutes, sec. 1743.

Article II.—Transit to Post.

Departure for post.

10. Having received the papers and instructions mentioned in the preceding sections, the Diplomatic Agent will proceed by the most convenient and direct route of usual travel to the seat of the Government to which he is accredited. Salary is allowed for the time actually and necessarily employed in the transit, not, however to exceed the limits prescribed in the succeeding section.

Revised Statutes, sec. 1742; and Supplement, vol. I, p. 35.

11. Pursuant to the authority conferred upon the Secretary of State by the act of June 11, 1874, section 4, he has established, determined, and made public the following schedule of the maximum amount of time actually necessary in which to make the transit between each diplomatic post in the countries named and the city of Washington, and *vice versa*, viz:

Argentine Republic (Buenos Ayres).....	45 days.
Austria-Hungary (Vienna)	30 days.
Belgium (Brussels)	20 days.
Bolivia (La Paz).....	50 days.
Brazil (Rio de Janeiro)	40 days.
Central American States (to the usual seat of the Legation at Guatemala City).....	30 days.
Chili (Santiago)	45 days.
China (Peking).....	70 days.
Columbia (Bogotá).....	35 days.
Corea (Seoul).....	65 days.
Denmark (Copenhagen).....	25 days.
Egypt (Cairo)	35 days.
France (Paris)	20 days.
Germany (Berlin).....	25 days.
Great Britain (London)	20 days.
Greece (Athens).....	35 days.
Hawaiian Islands (Honolulu)	35 days.
Hayti (Port au Prince).....	15 days.

Italy (Rome)	30 days.
Japan (Tokio)	40 days.
Liberia (Monrovia)	40 days.
Mexico (City of Mexico)	18 days.
Netherlands (The Hague)	20 days.
Persia (Teheran)	65 days.
Peru (Lima)	40 days.
Portugal (Lisbon)	30 days.
Roumania (Bucharest)	30 days.
Russia (St. Petersburg) ..	30 days.
Servia (Belgrade)	30 days.
Siam (Bangkok)	60 days.
Spain (Madrid)	25 days.
Sweden and Norway (Stockholm)	25 days.
Switzerland (Berne)	25 days.
Turkey (Constantinople)	40 days.
Uruguay and Paraguay (Montevideo)	45 days.
Venezuela (Caracas)	25 days.

12. The periods prescribed in the foregoing table are determined for the journey to and from the usual seats of legation at the capitals of the respective countries. In case the seat of the Government or the residence of its executive head is temporarily elsewhere than at the national capital, the fact should be reported to the Department of State, for instructions.

Transit when the seat of Government is not at the capital.

Case to be reported.

13. Allowance will also be made for the time necessarily occupied for the journey, when actually made, by the most direct mode of conveyance from the residence of the Diplomatic Agent, if in the United States, to Washington.

Transit from residence to Washington.

Supplement to Revised Statutes, vol. I, p. 36.

Revised Statutes, sec. 1740.

Transit to an American country.

14. Persons appointed to posts in the American hemisphere will not proceed to or return from them by the way of Europe, unless it shall be shown to the satisfaction of the Department that such a course saves time.

15. It is not expected that any part of the transit-time allowance which may be economized by a rapid ocean voyage, close connections, or otherwise, shall be made use of by the way to prolong the journey or to deviate from the usual lines and modes of travel for purposes of pleasure or sojourn; the Diplomatic Agent will use due diligence to reach his post as speedily as possible after quitting Washington.

Transit to be direct and as expeditious as possible.

16. Every effort should be made to guard against delays by becoming acquainted before departure with the usual lines of communication.

Delays in transit to be avoided.

17. It is frequently represented to the Department that the journey of a Diplomatic Agent to his post has been delayed by circumstances entirely beyond his control. The Department of State can lay down no rule in respect to such cases. The statute provides that the schedule of allowances of time for transit shall be determined and made public; that it shall in no case be exceeded, and that modification thereof shall be made in like manner as the original schedule. Diplomatic Agents whose transit journey may be so delayed will under no circumstances draw for, or render an account covering, more transit time than is fixed in the existing schedule; but they may report the fact of such delay to the Department and request instructions thereon.

Delay by illness, &c.

Supplement to Revised Statutes, vol. I, p. 36.

Excess of transit time must not be drawn for.

Appointment of
persons not in the
United States.

18. Should a person at the time residing, traveling, or sojourning abroad be appointed to a Diplomatic post he will refrain from drawing salary or rendering accounts covering transit and instruction periods, until, after reporting to the Department of State the facts necessary to an understanding and decision of the matter, he shall receive the instructions of the Secretary of State. His regular salary will, however, begin from the date of his entrance upon his official duties, and be available without further special instructions.

Passage of Dip-
lomatic Officers in
naval vessels.

19. Passage in a naval vessel is sometimes accepted by, or ordered for, Diplomatic or other Officers of the United States. It is not expected that in any such case the commander of the vessel shall be chargeable with the additional expense which he may thereby incur. Consequently, before embarking in any such vessel, the Diplomatic or other Officer will come to an understanding upon the subject with the commander, and will himself be expected to defray the additional expense referred to, unless he shall have been previously authorized by the Department of State to make a separate charge therefor against the Government.

Article III.—Arrival at Post and Entrance upon Official Relations.

When salary at
post begins.

20. So far as the Diplomatic Agent's relations to his own Government are concerned, his allotted time of transit is held to cease, and his regular term of office for which he is entitled to receive salary is deemed to begin on the day of reaching the seat of the mission to which he is appointed, even though he may not be able to enter on that day upon official relations with the Government to which he is accredited.

Should notify
predecessor of in-
tended arrival.

21. It is advisable for a Diplomatic Agent to give informal notice to his predecessor, if the latter be at the post, some days before his expected arrival, in order that any usual courteous exemptions in favor of his personal effects and those of his family and suite may be extended

Passage through
a third country.

at the frontier custom-house. Should he have occasion to pass through the territory of a third State on the journey to his post, the like courtesies may be granted on being requested through the Diplomatic representative of the United States in such third country; but this is a privilege, and not a right.

PRESENTATION OF CREDENTIALS.

Preliminaries to
formal reception.

22. In most cases, a Mission of the United States will be found already established at the seat of Government, and still in charge of the outgoing representative, or of a Chargé d'Affaires *ad interim*. In either case, the newly-arrived agent should seek, through the actual incumbent of the Mission, an informal conference with the Minister for Foreign Affairs, or such other officer of the Government to which he is accredited as may be found authorized to act in the premises, and arrange with him for his official reception. He should at the same time, in his own name, address a formal note to the Minister for Foreign Affairs, communicating the fact of his appointment and his rank, and requesting the designation of a time and place when he may present his letter of credence.

Communication
of office copy of
credentials of a
Minister.

23. Should the Diplomatic Agent be of the grade of Envoy Extraordinary and Minister Plenipotentiary, or Minister Resident, in either of which cases he will bear a letter of credence signed by the

President and addressed to the Chief of the Government, he will, on asking audience for the purpose of presenting the original in person, communicate to the Minister for Foreign Affairs the open office copy which accompanies his original instructions. He will also, for the completion of the archives of his Legation, prepare and retain on file a copy of his credentials.

24. If, however, the Agent be of the rank of Chargé d'Affaires bearing a letter of credence addressed to the Minister for Foreign Affairs, he will, on addressing to the Minister the formal note prescribed in section 23, communicate to him the office copy of his credential letter and await the Minister's pleasure as to receiving the original in a personal interview. Of a Chargé d'Affaires.

25. On the occasion of presenting ceremonial letters of recall or of credence, to the head of the Government, it is usual at most capitals for the retiring or incoming Diplomatic Agent to make a brief address pertinent to the occasion. This address should be written and spoken in the English tongue by the representative of the United States. Ceremonial address on presentation.

Before the day fixed for his audience of reception or of leave-taking, he should furnish to the Minister for Foreign Affairs a copy of his proposed remarks, in order that a suitable reply thereto may be prepared.

A copy of the address and of the reply must be sent to the Department of State.

26. When the retiring representative is, like his successor, of the grade of Envoy Extraordinary and Minister Plenipotentiary, or Minister Resident, it is customary for him to present his letter of recall in the same audience in which his successor presents his credential letter; unless for some sufficient cause he should have been obliged to take formal leave and present his letter of recall before the presentation of his successor. His predecessor's audience of leave-taking.

27. It sometimes happens that the retiring Diplomatic Agent may not have received his letter of recall from the Department of State in season to present it in person before his departure. In such cases his successor, or if need be (after receiving special instructions to that effect), the Chargé d'Affaires *ad interim*, when there is one, will present the letter of recall in such manner as may be indicated to him by the Minister for Foreign Affairs. Presentation of letters of recall.

28. In the ceremonies on all formal occasions the Diplomatic Agent will be governed by the established usage of the country of his official residence. There is usually at foreign courts an officer having charge of such ceremonial matters, and it may often be advisable to confer with him informally in order to insure appropriate conformity to established rules. Conformity to ceremonial usage enjoined.

29. There is also in each country an established rule as to official calls. The Diplomatic Agent should, immediately upon his arrival, inform himself upon this subject, and conform strictly to the rule. Ceremonial etiquette of diplomatic visits.

30. If the Legation be provided with a Secretary, the newly-arrived Diplomatic Agent should be accompanied by him in the official ceremony of presenting credentials and in his subsequent official visits to his colleagues. To be accompanied by Secretary of Legation.

31. A Diplomatic Agent should omit no occasion to maintain the most friendly personal and social relations with the members of the Government and of the diplomatic body at the place of his residence; but it is not to be expected that he shall incur onerous charges for hospitality and entertainment. Relations with colleagues.

Official duties begin.

32. The official duties of a Diplomatic Agent begin on the day of his formal reception.

Article IV.—Character and Relative Rank.

Rules of the Congress of Vienna.

33. For the sake of convenience and uniformity in determining the relative rank and precedence of diplomatic representatives, the Department of State has adopted and prescribed the seven rules of the Congress of Vienna, found in the protocol of the session of March 9, 1815, and the supplementary or eighth rule of the Congress of Aix-la-Chapelle of November 21, 1818. They are as follows:

“In order to prevent the inconveniences which have frequently occurred, and which might again arise, from claims of precedence among different Diplomatic Agents, the Plenipotentiaries of the Powers who signed the Treaty of Paris have agreed on the following articles, and they think it their duty to invite the Plenipotentiaries of other crowned heads to adopt the same regulations:

“ARTICLE I. Diplomatic Agents are divided into three classes: That of Ambassadors, Legates, or Nuncios; that of Envoys, Ministers, or other persons accredited to Sovereigns; that of Chargés d’Affaires accredited to Ministers for Foreign Affairs.

“ART. II. Ambassadors, Legates, or Nuncios only have the representative character.

“ART. III. Diplomatic Agents on an extraordinary mission have not, on that account, any superiority of rank.

“ART. IV. Diplomatic Agents shall take precedence in their respective classes according to the date of the official notification of their arrival. The present regulation shall not cause any innovation with regard to the representative of the Pope.

“ART. V. A uniform mode shall be determined in each state for the reception of Diplomatic Agents of each class.

“ART. VI. Relations of consanguinity or of family alliance between courts confer no precedence on their Diplomatic Agents. The same rule also applies to political alliances.

“ART. VII. In acts or treaties between several powers which grant alternate precedence, the order which is to be observed in the signatures shall be decided by lot between the Ministers.

“ART. VIII. It is agreed that Ministers Resident accredited to them shall form, with respect to their precedence, an intermediate class between Ministers of the second class and Chargés d’Affaires.”

Grade of ministers sent by the United States.

34. The representatives of the United States are of the second, the intermediate, and the third classes, as follows:

A. Envoys Extraordinary and Ministers Plenipotentiary. Special Commissioners, when styled as having the rank of Envoy Extraordinary and Minister Plenipotentiary.

B. Ministers Resident.

These grades of representatives are accredited by the President.

C. Chargés d’Affaires, commissioned by the President as such, and accredited by the Secretary of State to the Minister for Foreign Affairs of the Government to which they are sent.

D. Chargés d’Affaires *ad interim*. There are in most cases Secretaries of Legation, who, *ex-officio*, act as temporary chiefs of mission in the absence of the Minister, and need no special letter of credence. In the absence of a Secretary of Legation, the Secretary of State may designate any competent person to act *ad interim*, in which case he is specifically accredited by letter to the Minister for Foreign Affairs.

35. When the office of Consul-General is added to that of Minister Resident, Chargé d'Affaires, or Secretary of Legation, the diplomatic rank is regarded as superior to the consular rank. The officer, however, will follow the Consular Regulations in regard to his consular duties and official accounts, keeping correspondence in one capacity separate from correspondence in the other. The allowance for rent in such combined offices is as a rule based upon the entire salary.

Superadded consular office.

36. A Secretary of Legation will, in case of the absence, death, or disability of the diplomatic representative, assume the duties and perform the functions of Chargé d'Affaires *ad interim* without special instructions or credentials to that end; he will then follow the regulations herein prescribed.

Chargés d'Affaires *ad interim*.

37. A Vice-Consul-General or Vice-Consul at a post where his superior officer holds the dual positions of Minister or Secretary of Legation and Consul-General, has no diplomatic quality or functions whatever.

Subordinate consular officers.

38. In no case will a Consular Officer not also a Secretary of Legation act as Chargé d'Affaires *ad interim* in the absence of the diplomatic representative without express direction of the Department of State; and this, when given, will be accompanied by a letter accrediting him to the Minister for Foreign Affairs.

Not to act as Chargés d'Affaires. Revised Statutes, sec. 1738.

39. A Consular Officer may, without express authorization, be left in charge of the archives and property of the Legation, but this circumstance gives him no right to perform official diplomatic duties, or to expect other than his consular compensation.

May take custody of archives.

40. In the possible case of objection, by the Government of the country of residence, to a Diplomatic Officer who is also a Consular Officer performing the functions of both offices, the Deputy Consul-General or Deputy Consul, if there be one, may be put in charge of the business of the Consulate-General.

Superadded consular rank separable in certain contingencies.

Revised Statutes, sec. 1738.

CLERKS OF LEGATIONS.

41. A Clerk is the employé of the Minister; has no official rank or position and no immunities, or privileges except as a member of the Minister's household. He is not to be styled Secretary of Legation, Attaché, Chancellor, or be known by any other diplomatic title. Temporary custody of the archives and property will give him no claim to extra compensation.

Not diplomatic officers.

No extra compensation as custodian of archives.

42. Although a Clerk of Legation or Consul left in charge of the archives and property of the Mission is prohibited from performing unauthorized diplomatic functions, some special emergency may require his immediate intervention with the diplomatic authorities of the country for the protection of American interests, when he will disclaim any pretension or power to act otherwise than unofficially. All such cases should be immediately reported by him to the Department of State.

Unofficial good offices of Clerks of Legation.

Article V.—Diplomatic Immunities and Privileges.

43. A diplomatic representative, while in a foreign State as the agent there of his Government, possesses certain rights classed under the heads of inviolability and extraterritoriality. The full scope of these rights is discussed by the standard authorities on international law, whose works should be consulted. In these instructions it seems necessary to advert to a few points only.

Extraterritoriality and inviolability.

Immunity from arrest and process. Revised Statutes, secs. 4063, 4064.

44. A diplomatic representative possesses immunity from the criminal and civil jurisdiction of the country of his sojourn; and cannot be sued, arrested, or punished by the law of that country. Neither can he waive his privilege, for it belongs to his office, not to himself. It is not to be supposed that any representative of his country would intentionally avail himself of this right to evade just obligations, incurred either by himself or the members of his Mission.

Certain property not exempt from process.

If, however, a Diplomatic Agent holds, in such foreign country, real or personal property, aside from that which pertains to him as a Minister, it is subject to the local laws.

Exemption from testifying in courts of law.

45. A foreign diplomatic representative cannot be compelled to testify, in the country of his sojourn, before any tribunal whatsoever. This right is regarded as appertaining to his office, not to his person, and is one of which he cannot divest himself except by the consent of his Government. Therefore, even if a Diplomatic Agent of the United States be called upon to give testimony under circumstances which do not concern the business of his Mission, and which are of a nature to counsel him to respond in the interest of justice, he should not do so without the consent of the President, obtained through the Secretary of State, which in any such case would probably be granted.

Inviolability of domicile.

46. Immunity from local jurisdiction extends to the Diplomatic Agent's dwelling house and goods, and the archives of the Legation. These cannot be entered, searched, or detained under process of local law, or by the local authorities.

Asylum.

47. This privilege, however, does not embrace the right of asylum for persons outside of the Agent's diplomatic or personal household.

Unsanctioned usage of asylum.

48. In some countries, where frequent insurrections occur and consequent instability of government exists, the practice of extraterritorial asylum has become so firmly established, that it is often invoked by unsuccessful insurgents, and is practically recognized by the local government, to the extent even of respecting the premises of a consulate in which such fugitives may take refuge. This Government does not sanction the usage, and enjoins upon its representatives in such countries the avoidance of all pretexts for its exercise. While indisposed to direct its agents to deny temporary shelter to any person whose life may be threatened by mob violence, it deems it proper to instruct its representatives that it will not countenance them in any attempt to knowingly harbor offenders against the laws from the pursuit of the legitimate agents of justice.

Worship in the Agent's domicile.

49. The liberty of worship is very generally conceded to foreign legations in countries which maintain a religious establishment different from that of the Diplomatic Agent's country. If any Diplomatic Agent should assert the right of worship, within his legation, for himself and those of his fellow-countrymen who profess the same faith as he does, he would be upheld, within the limits of the like privilege conceded in the country of his sojourn to other foreign legations.

Immunities of Secretaries of Legation.

50. A Secretary of Legation is, according to the admitted principles of international law, a "public minister." His personal privileges, immunities, domiciliary privileges, and exemptions are generally those of the Minister of whose official household he forms a part.

The Agent's household. Revised Statutes, sec. 4063, 4064.

51. The personal immunity of a Diplomatic Agent extends to his household, and especially to his secretaries. Generally, his servants share therein, but this does not always apply when they are citizens or

subjects of the country of his sojourn. Cases have arisen where a Diplomatic Agent has claimed for a native servant exemption from military service. His right to do so is not clear, and in future the Diplomatic Agents of the United States are advised against questioning the right of the native Government to claim such service from one of its subjects in his employ. It is to be expected that the claim, if made, will be presented courteously to the chief of the Mission.

Revised Statutes,
Sec. 4065.

Claim of military
service.

It is customary for a foreign Minister to furnish to the local government a list of the members of his household, including his hired servants, with a statement of the age and nationality of each. When this is requested it should always be given.

List of household to be furnished.

52. In most Mahometan and Oriental countries, the rights and immunities of extraterritoriality have been secured by treaty to foreign representatives, including to some extent Consular Officers.

Extraterritoriality in non-Christian countries.

Among the rights of extraterritoriality is that of criminal and civil jurisdiction, which will be specially treated under its appropriate heading.

53. Couriers and bearers of dispatches, employed by a Diplomatic Agent in the service of his Government, are privileged persons, as far as is necessary for their particular service, whether in the state to which the Agent is accredited, or in the territories of a third state with which the Government they serve is at peace.

Bearers of dispatches.

54. It is the custom of international intercourse that to a Diplomatic Agent shall be conceded the privilege of importation of effects for his personal or official use, or for the use of his immediate family, without payment of duties thereon. The application of this privilege varies in different countries, but as a rule is restricted to the head of the Mission. It is the duty of the Agent to acquaint himself with the formalities prescribed in such case by the local law or regulations, and to conform therewith. The privilege is one of usage and tradition, rather than an inherent right, and is one which the Government of the United States gives to the foreign representatives it receives. Where the Agent has ground to believe that a full measure of reciprocal courtesy is limited or denied to him abroad, he should refrain from questioning the local rule on the subject, but await such instructions as the Department of State may give him after receiving full information as to the circumstances.

Importations free of duty.

Reciprocity of the privilege.

55. The diplomatic privilege of importing goods for personal use is not accorded to a foreign Secretary of Legation in the United States or in any foreign country, so far as is known.

Free importation not granted to Secretaries of Legation.

56. In most countries the franchise of importation is accorded to a Chargé d'Affaires *ad interim*. Where the exception exists the fact should not be made the occasion of remonstrance or argument with the local government without the express directions of the Department of State.

Importations by a Chargé d'Affaires *ad interim*.

57. Transit free of customs dues is usually conceded by a third state through whose territories a Diplomatic officer passes on his way to or from his post. His status, however, while in the third country lacks the extraterritorial element of immunity belonging to him in the country to which he is accredited.

Transit through a third country.

58. Finally, a Diplomatic Agent should be *persona grata* to the Government to which he is accredited.

Personal acceptability.

Article VI.—Residence and Business Offices.

Offices in the
Diplomatic Agent's
residence.

59. The Department of State prescribes no fixed rule as to the offices for the transaction of the business of the Legation. The general custom is to set apart convenient rooms in the Agent's private residence, to be used wholly for the business of the Legation and for its archives and property. This, however, in some cases entails inconvenience, and the element of permanence is almost wholly absent. A considerate discretion will prevent the incumbent from entering into engagements for any length of time on a scale of living suitable to his own means but which may be inconvenient to his successor.

Offices in a separate building.

60. In several instances, where the business of the Legation and the bulk and value of the archives and property have so counseled a Diplomatic Agent, he has established the offices in separate premises, wholly devoted to official purposes. In these cases, where the moderate rental, the convenience of the arrangement, and the comparative permanence of location which it insures, have commended themselves to the Department, the change has been approved. A Diplomatic Agent should in no case make any arrangement involving an increase of the amount of rent allotted to his Legation, or remove the offices from separate and permanent quarters to his own residence, without first reporting all the facts to the Department of State and asking its approval.

Coat of arms and
flag.

61. A Legation is not under the same necessity of displaying a coat of arms and raising a flag as a Consulate; but it is in most capitals customary to place an official shield above the principal entrance of the Diplomatic Agent's residence, or the offices of the Legation when these are separate from his residence, with a short flag-staff set above the shield, on which to display the United States flag on occasions of special ceremony, such as the Fourth of July and Washington's Birthday, and also, by way of courtesy on any national celebration in the country where the Legation is situated.

Article VII.—Sundry Personal Prohibitions and Restrictions.

Reticence.

62. One of the essential qualifications of a Diplomatic Agent is to observe at all times a proper reserve in regard to the affairs of his Government; and the knowledge of these affairs, possessed by persons belonging to the Legation, must be regarded as confidential.

Uniform prohibited except in certain cases.

63. Officers of the several grades in the diplomatic service of the United States are hereby instructed to conform to the requirements of law prohibiting them from wearing any uniform or official costume not previously authorized by Congress.

Military title and uniform.

Revised Statutes,
secs. 1226 and 1688.

The statute authorizes all officers who have served during the rebellion as volunteers in the armies of the United States, and who have been, or may hereafter be, honorably mustered out of the volunteer service, to bear the official title, and, upon occasions of ceremony, to wear the uniform of the highest grade they have held by brevet or other commissions in the volunteer service.

Correspondence on public affairs forbidden.

Revised Statutes,
sec. 1751.

64. The attention of Diplomatic Agents is especially called to the provision of law by which they are forbidden to correspond in regard to the public affairs of any foreign Government or in regard to any matter which may be a subject of official correspondence or discussion with the Government to which they are accredited, with any newspaper or other periodical, or with any person other than the proper officers of the United States. It is forbidden to Diplomatic Agents abroad to

participate in any manner in the political concerns of the country of their residence ; and they are directed especially to refrain from public expression of opinions upon local, political, or other questions arising within their jurisdiction.

65. It is deemed advisable to extend a similar prohibition against public addresses, except upon exceptional festal occasions in the country of official residence. Even upon such occasions the utmost caution must be observed in touching upon political matters.

Restrictions upon speech-making.

66. The statute further forbids Diplomatic and Consular Officers from recommending any person at home or abroad for any employment of trust or profit under the Governments to which they are accredited. This prohibition against recommendation for office is hereby extended to offices under the United States ; it does not, however, prevent a Diplomatic Agent from recommending any person whom he may deem suitable and competent to fill a subordinate office in or under his own mission.

Recommendation for office.

Revised Statutes, sec. 1751.

PRESENTS AND TESTIMONIALS FROM FOREIGN POWERS.

67. Diplomatic Officers are forbidden from asking or accepting, for themselves or other persons, any presents, emolument, pecuniary favor, office, or title of any kind, from any foreign Government. It not unfrequently happens that Diplomatic Officers are tendered presents, orders, or other testimonials in acknowledgment of services rendered to foreign states or their subjects. These cannot be accepted without previous authority of Congress.

Presents and testimonials.

Constitution and Revised Statutes, sec. 1751.

68. It is thought more consonant with the character of the diplomatic representation of the United States abroad that every offer of such presents should be respectfully, but decisively, declined. This having been for several years a standing instruction to all our agents abroad, the rule is, probably, so well known as to prevent the offer of such presents in future ; but it is deemed proper to call the attention of officers to the subject, and to observe that, should there be reason to anticipate such an offer, informal notice, given in the proper quarter, of the prohibition against accepting a direct tender thereof would avoid the apparent ungraciousness of declining a courtesy.

Preferable that testimonials be discouraged in advance.

ATTACHÉS.

69. The law prohibits the appointment of any "Attaché" or of any Secretary of Legation otherwise than as provided by statute. No such appointment, therefore, will be made by any Diplomatic Agent of the United States ; and should it come to the knowledge of a principal Diplomatic Agent that any person is representing himself as an "Attaché," or styling himself Secretary of the mission without warrant, it will be his duty to report the fact to the Department, and to informally make it known to the Government to which he is accredited.

No Attaché permitted.

Revised Statutes, section 1674 ; paragraph fifth.

Military or naval attachés, however, may be designated by the Department from the Army or Navy, to reside at the seat of Legation abroad when the public interests demand it.

CORRESPONDENCE OF CONSULS.

70. Consular Officers have no diplomatic position, and must not assume such unless specially instructed by the Department. They, therefore, cannot ordinarily correspond directly with the Government of the country in which they reside.

Official correspondence of Consular Officers.

Article VIII.—Rules governing Correspondence.

CORRESPONDENCE OF DIPLOMATIC OFFICERS WITH THE DEPARTMENT OF STATE.

PREPARATION OF DISPATCHES.

Size of dispatches to be uniform.

Margin.

Dispatch restricted to one subject.

Numbering dispatches serially.

Register to be kept.

Diplomatic and consular series to be numbered in distinct sequence.

Distinction between Diplomatic and Consular subjects.

Form of dispatch.

“Jacket.” How superscribed.

71. It has been found convenient, in the transaction of business in the Department of State, to have the official communications from missions abroad bound in volumes. To insure uniformity in this respect, all dispatches, and their accompaniments, should be written on paper of the same dimensions, viz, $13\frac{1}{4}$ inches long and $8\frac{1}{4}$ inches broad. For the convenience of binding, a margin of at least $1\frac{1}{2}$ inches should be left along the *inner* side of the page, and a convenient space should border the text at top and bottom. The written instructions from this Department exhibit an example of the kind of paper referred to and the mode of preparing the dispatches. Dispatch paper of the prescribed form will be supplied by the Department upon requisition therefor.

In no case should any dispatch, or copied inclosure, be so transcribed that the writing extends to the inner edge or backfold of the sheet.

One subject only should be treated in each dispatch.

All dispatches must be numbered consecutively, beginning with the acceptance of the office, and continuing, consecutively, during the term of the incumbent. A Secretary of Legation acting as Chargé d’Affaires *ad interim* will continue the series of numbers of the principal or of the late representative. This series will, in the case of a vacancy, be continued until the entry of a successor upon his duties. A new series should not be begun with the new year; and the series of numbers of dispatches to the Department of State must be kept separate from any other numbered series of communications. For the purpose of insuring regularity in the numbering of dispatches, a register should be kept, in which the numbers and dates, with an indication of subject, are to be instantly entered.

72. When the Diplomatic Officer is a Minister and Consul-General, his correspondence with the Department of State is to be in two distinct series, one Diplomatic and the other Consular, each to be numbered in its own sequence. In the Diplomatic series (which should be marked “Diplomatic” immediately after the number), the date should be written “Legation of the United States at ———”; in the Consular series (which should similarly be noted as “Consular”) the date should be “Consulate-General of the United States at ———.”

73. Care should be taken to discriminate correctly between the subjects proper to be treated of in the “Diplomatic” series and those of the “Consular” series. No precise rule can be given applicable to all cases. Naturally, all political dispatches, reports of interviews, negotiations, questions concerning protection of citizens, &c., are diplomatic; while accounts, Treasury returns, matters touching relief and discharge of seamen, and the like subjects specifically treated of in the Consular Regulations as pertaining to the business of a Consulate, are consular.

74. The text proper of all dispatches to the Department of State should begin upon the *third* page of the sheet, and be written on *every* page thereafter until the signature is reached, and not on alternate pages, as is sometimes done. The *first* page serves as a cover or “jacket,” for convenience of reference and file. On the second line of the first or jacket page should appear the serial number of the dispatch and the

station of the mission; on the third line the date of the dispatch; on the fifth line the name of the Diplomatic Officer and of the Secretary of State to whom the dispatch is addressed; on the seventh line the general subject of the dispatch (which may often be comprehended in a single "catch-word"); and on the subsequent lines of the first (and following page if necessary) a synopsis of the contents. The pages of the dispatch proper should be consecutively numbered. A *pro forma* dispatch is annexed to these instructions.

Form of dispatch.
"Jacket." How
superscribed.

Pages to be num-
bered.

INCLOSURES.

75. In transmitting inclosures in dispatches, the contents of the inclosures are to be briefly stated in the body of the dispatch, and attention is to be directed to such points contained in them as may appear to be particularly deserving of notice. In each case, following the signature, the officer should subjoin a "List of Inclosures," showing the names of the persons by and to whom the inclosures are written and the subject.

List of inclosures.

All extracts from newspapers, sent as inclosures, must be neatly cut out and pasted upon cap paper, corresponding in size with the dispatch. Tabular statements accompanying dispatches are in all cases to be accurately added up.

Newspaper ex-
tracts.

76. When pamphlets, or brief publications of any kind, are of such interest or importance that they are forwarded to the Department, either as accompaniments to dispatches or separately, it is desirable that several copies (not less than three) be transmitted.

Several copies of
printed matter de-
sirable.

77. Should the correspondence transmitted as inclosures be in any foreign language, exact copies of the originals are to be forwarded. Translations of these should also accompany the dispatches, except when from pressing emergency there is not time to make them. In the case of vouchers for expenditures, the translation must be attached to each voucher.

Translations.

78. It is especially desired that Diplomatic Agents use every endeavor to insure fidelity in the translation of foreign correspondence. A Diplomatic Officer should in no case accept without examination translations made for him by subordinates or casual employés, who may often lack a competent knowledge of English composition.

Fidelity of trans-
lations.

79. Whenever a dispatch mentions that a paper is inclosed, an oblique line is to be made in the margin (thus: \diagup), and above such line is to be placed the number corresponding to the number of the inclosure. All inclosures should be indorsed and numbered. The numbers and indorsements, especially on all accounts and returns, should show briefly but clearly what the inclosures are, and should correspond to the description required in the "List of Inclosures" prescribed in a preceding paragraph. The vouchers of an account should not be set out in the "List of Inclosures," but the account only.

References to in-
closures.

Indorsements.

80. Each series of inclosures is to be numbered anew in each dispatch, commencing with No. 1; and when there are more inclosures than one in a dispatch each inclosure is to be numbered in the order in which it is to be read.

Series of inclos-
ures.

81. In transmitting copies of correspondence with dispatches, Diplomatic Agents are requested to use *half* sheets of paper in all cases where they will suffice to contain the text of the note to be copied. In making copies of correspondence, the blank space on a page at the end of one communication should not be used to begin another. The copy

Copies as inclos-
ures.

of each communication should be on its own sheet, or, if brief, on its own half-sheet. Copies should not be made on alternate pages.

Reference to previous dispatches.

82. When Diplomatic Agents write upon any subject upon which they have previously written, they will be careful to refer to such previous dispatches, both by number and date.

Reference to local matters of politics, &c.

83. In dispatches upon local, political, or other questions they will confine themselves to the communication of important or interesting public events, as they occur, avoiding all harsh or unnecessary reflections upon the character or conduct of individuals or Governments. It is at the same time no less their duty to report freely and seasonably to their own Government all important facts which may come to their knowledge touching the political condition of the country, especially if their communications can be made to subserve or may affect the interests and well-being of their own country. Should the Agent deem his observations of a character requiring to be treated with reserve, he will draw the attention of the Department to such passages as hereinafter directed.

CORRESPONDENCE WITH THE FOREIGN GOVERNMENT.

English language to be employed.

84. In his formal written communications to the Government to which he is accredited, the Diplomatic Agent will employ the English language.

Translation into foreign tongues.

85. In the countries of the East the English communications of the Diplomatic Agent to the local Government are generally expected to be accompanied by a translation into the language of the country, made by the dragoman or interpreter of the Legation.

In European and American countries, urgent need of hastening a negotiation may sometimes require that a translation should accompany a note, but recourse to such an expedient should be unusual, and occur only when there is reasonable certainty that the translation will be faithful and correct in style.

The English text the standard of reference.

In any event, the English text is alone to be resorted to in ascertainment of the precise intention of the Diplomatic Agent, should there be question on this point.

Documents in two languages.

86. In protocols of conferences, memoranda of interviews and the like, drawn up in a foreign tongue, it is advisable that the equivalent English version appear in parallel text, following in this respect the general usage in regard to formal treaties and conventions; this is especially desirable when the paper is to be signed by the two parties.

See section 219.

Copies of correspondence to be forwarded to Department.

87. The Department must be furnished, without delay, with exact copies and, if in a foreign tongue, translations of all correspondence with the Government to which the Minister is accredited. All his conversations with officers of that Government having any material bearing on its relations with the United States should be particularly noted, as soon after the conversations as possible, and a copy of these minutes, or the substance thereof, promptly communicated to this Department. All important official correspondence with Consuls or others should in like manner be communicated *in copy*. The *originals* of all correspondence must be retained on the files of the mission.

Cipher.

88. The use of a cipher in cases where secrecy is important to the public interest is recommended. If there be none among the archives of the Legation, the Department of State will furnish one. It is expected that an officer intrusted with the cipher will thoroughly famil-

iarize himself with its employment, especially with the spelling code, in order that, in emergencies, it may be accurately used.

The cipher should be kept under lock and key, and the agent will be held personally responsible for its safety and secrecy.

GENERAL RULES AS TO CORRESPONDENCE.

89. The use of the telegraph at the expense of the Government is not permitted in the ordinary business of a legation, or in communication with the Department of State, except when justified by the importance and urgency of the case, or under instructions from the Department.

Use of the telegraph.

90. Among the most important general duties of a diplomatic representative of the United States is that of transmitting to his own Government accurate information concerning the policy and views of that to which he is accredited, in its important relations with other powers. To gain this information requires steady and impartial observation, a free though cautious correspondence with other agents of the United States abroad, and friendly social relations with the members of the diplomatic body at the place of his residence.

Duty to transmit information, and to cultivate friendly social relations with colleagues.

91. In their regular correspondence with the Department, Diplomatic Representatives of the United States will transmit early copies of all official reports and such information relating to the Government, finances, commerce, arts, sciences, agriculture, manufactures, mining, tariffs, taxation, population, laws, judicial statistics, and to the condition of the countries where they reside, as may be useful. In dispatches communicating such information, however, political affairs should not be referred to, but should be reserved for separate communications. Books of travel, history, and all such as relate to matters of political importance, maps published by authority of the State or distinguished by extraordinary reputation, and new publications of useful discoveries and inventions, will always be acceptable acquisitions to this Department. Expenditures for such purpose should, in all cases, form a separate charge against the Department; but none should be incurred without its previous express direction, unless in a case of absolute necessity.

Information to be collected for Department.

What books, &c., may be sent to Department.

92. With the exception of the correspondence with the Treasury Department respecting accounts, and such other correspondence as special provisions of law or instructions of this Department may require, no correspondence will be held by Diplomatic or Consular Representatives of this Government with any Department other than the Department of State. This injunction is especially applicable to communications to or from subordinates of other Departments. This rule is, however, not intended to prohibit a Diplomatic Agent from answering any reasonable inquiry of an officer of another Department unless the inquiry shall have been referred to the Department of State, but he may, if circumstances permit, answer such inquiries without awaiting special instructions; and in so doing he should invariably send his reply, unsealed and accompanied by a copy for the files, to the Secretary of State, who will decide whether, and how, it shall be forwarded to the person addressed.

No direct correspondence with other Departments, with certain exceptions.

93. Draughts of correspondence sent out should not be allowed to accumulate, but should be destroyed as soon as accurately transcribed in the proper record books.

Draughts of correspondence to be destroyed.

94. It is the particular desire of the Department that no Diplomatic Agent, or any officer of the Legation, should retain or carry away with him draughts or copies of his official correspondence. Obedience

No copies of correspondence to be retained by the Agent.

to this request is enjoined, inasmuch as it has sometimes happened, and may at any time happen, that, on the death of the possessor of such copies, they pass into the hands of others not so scrupulously observant of their confidential character.

Prohibition
against unauthor-
ized publication.

Private corre-
spondence with
the Department
discouraged.

95. Under no circumstances should any public or official paper be published without the express consent of the Department of State.

96. Voluntary recourse to private letters to the Secretary of State or to officers of the Department of State, on topics relating to the official business of the Legation, is discouraged.

Confidential
communications.

It is considered best that all communications of Diplomatic Officers to the Department of State should be in the form of regular dispatches. Where the whole dispatch appears to the writer to be necessarily of a reserved or secret character, it should be conspicuously marked as "Confidential." Where one or more paragraphs of a dispatch seem to require any precaution against undue publicity, a red line may be drawn to mark them and the word "Confidential" plainly written in the margin. The Secretary of State, however, reserves the ultimate right to decide whether the suggested reserve is necessary in the public interest.

Article IX.—Record Books.

97. The following record books should be kept at all Missions of the United States abroad :

Dispatch-book.

A *dispatch-book*, into which are to be copied all official communications written by the Diplomatic Agent to the Department of State. Press copy-books are not to be considered as permanent records.

Note-book.

A *note-book*, into which are to be copied all official communications written by the Diplomatic Agent to the Government to which he is accredited.

Letter-book.

A *letter-book*, into which are to be copied all other official communications written by the Diplomatic Agent. This book should contain the record of his letters to the Consular Officers under his jurisdiction.

Passport-book.

A *passport-book*, in which are to be registered all passports issued or visaed by the Diplomatic Agent.

Miscellaneous
record-book.

A *miscellaneous record-book*, for the entry of those official papers and records which cannot conveniently be classified and entered in the record books above named—and in this book should be included also copies of such translations of official papers as the Diplomatic Agent may forward with his dispatches to the Department of State.

Register of let-
ters received.

A *register of official letters received at the Legation*, which shall embrace the following information: Name of the writer, number and date of letter, when received, its import, and remarks thereon, as prescribed in the form hereto annexed.

Register of let-
ters sent.

A *register of official letters sent from the Legation*, stating the date and import of the letter, and the name of the person to whom sent, as prescribed in the form hereto appended.

Quarterly a c-
count-book.

A *quarterly account-current book*, in which shall be recorded the accounts of the Diplomatic Agent and the Legation accounts for contingencies.

Indexing the
records.

98. When a paper of any description is entered or recorded in either of the said books, it must be indexed by a reference both to the name of the author and the subject of the paper.

Papers to be la-
beled.

99. Instructions from the Department, and all official or business notes to the Legation, intended to be permanently kept there, shall be

indorsed with a short note of the contents and filed (not folded), until a sufficient number shall accumulate to form a volume; when they shall be bound.

100. All Diplomatic Agents are instructed, with a view to facilitate reference to previous correspondence, to keep in their offices the prescribed registers of all the documents, papers, letters, and books which have been, or which may be, at any time received, and also of those forwarded by them on matters connected with their official duties. Care of archives.

101. The copied records in the books above prescribed will include protocols of conferences, notes of official conversations, copies of correspondence, and every memorandum necessary to a full understanding of the history of the mission. Record of all communications from the Legation.

102. Such Ministers of the United States as, by law, are not allowed a Secretary of Legation, will themselves keep up the record of their Legations. Any such Minister who may neglect this duty will be chargeable with the expense which the Government may incur in consequence of his neglect. Responsibility for condition of records.

Article X.—Arrangement and Preservation of the Records and Archives.

103. The public interest, and the convenience of official intercourse with Diplomatic Representatives abroad, require that every successor to a mission should be thoroughly acquainted with all the directions that may have been given by this Department to his predecessors and all that may have been done by them in their official capacity. It is therefore the imperative duty of all Diplomatic Agents to carefully familiarize themselves with the records of their missions, and to preserve the archives of their own as well as of preceding terms, with the utmost care, for the benefit of their successors in office.

104. As soon as practicable after the arrival of a Minister at his post he will examine the archives and property of the Legation. If an inventory has been left by his predecessor, it should be verified with the person from whom it is received, and anything else found belonging to the United States, and not contained in the inventory, should be added thereto, with a note of such things as may be missing. If no inventory shall have been left, he must make one and verify it. In either case the inventory, of which a copy must be sent to the Department of State, should be fairly written and filed in the Legation. He will also, as soon as his convenience will permit, after arriving at his post, report to the Department the condition in which he finds the archives and records of the Legation. Inventory of archives and property to be sent to Department.

105. The instructions given to a Diplomatic Agent of the United States by his Government, the official communications received by him from other sources, the records of his answers thereto, and of all transactions relating to his office, belong to the archives of the Legation, and must be kept subject to the orders of this Department, and be transferred, with the effects of the Legation, together with the seal, press, arms, flag, and all other property belonging to the United States, to his successor in office. All records are public property.

106. All printed books delivered by the Department of State to a Diplomatic Agent, and those found by him at the Legation, are to remain permanently with the archives thereof, and to be transferred, as the property of the United States, by him to his successor in office, or Printed books.

to such person as may be designated by the Department of State to take charge of them.

Preservation of
archives by bind-
ing.

107. As fast as the correspondence received at a mission accumulates in sufficient quantities to make a volume of from 2 to 4 inches in thickness in any particular series of records, the Diplomatic Agent should cause it to be neatly and durably bound and appropriately lettered, in the manner prevailing in the Legation. If practicable, it is best to have this work done at his office. The cost is a proper item for the miscellaneous expense account.

Bound in regular
series.

108. It will in most cases be found convenient to have the correspondence bound in the following series :

A. Dispatches from the Department of State, arranged according to number and date.

B. Notes from the Government to which the Agent is accredited, arranged by date.

C. Correspondence with the consulates under the jurisdiction of the Legation. This should, if practicable, be classified alphabetically as to consulates, and chronologically as to the correspondence from each consulate.

D. All other miscellaneous letters received, arranged by date.

Inclosures, how
bound.

All inclosures received with any communication should be bound with it. If the original inclosures, for any reason, have been transmitted to some other quarter, a note of the fact should be inserted, and copies should, if possible, be retained on the files.

Translations.

Translations should be bound with the original.

Indexing the
volumes.

An index should be inserted at the beginning or end of each volume of correspondence.

Missing corre-
spondence.

If, when the binding of the Legation archives is undertaken, any part of the correspondence with the Department of State is missing, the fact should be reported, whereupon an effort will be made to supply copies of the missing papers to complete the file.

Preservation of
the older records.

109. If a Diplomatic Agent, on taking charge, should find that any of the older records of the mission are unbound or not arranged, he should endeavor to classify, arrange, and bind them. These older records, often of great historical value, are always of interest and utility, and it is the desire of the Department of State that they should not suffer by neglect or be inaccessible. If the accumulation be large, it is not of course expected that the labor of their arrangement should be entailed on any one incumbent of the mission, but it is hoped that each in succession, in the interest of the public service, will endeavor to do his share in the gradual work of remedying any existing disorder.

File-cases some-
times used.

110. At some Legations, instead of binding the received correspondence in volumes, as above directed, the custom obtains of placing the papers in convenient pamphlet-cases of uniform size and appearance, appropriately lettered on the back, with an index-sheet within, so as to afford a ready knowledge of the contents of each. Where this has been done for any length of time, and is found to secure safety from loss or displacement and ready access to the correspondence, it is not desired that the custom should be changed. It is, however, undesirable to adopt this method of preserving the files at Legations where it can well be avoided.

Article XI.—Mails.

Abuse of the dis-
patch pouches.

111. Attention is called to the matter which alone may be transmitted by the pouches and dispatch bags of the Government.

1st. Official correspondence and matter for the President or Vice-President of the United States, or either of the Executive Departments of this Government, or the heads thereof, or the President *pro tempore* of the Senate, or the Speaker of the House of Representatives.

2d. Letters, newspapers, and printed matter intended for either of the Assistant Secretaries, the Assistant Postmasters-General, or the Assistant Attorneys-General, or for any of the officers of this Department.

3d. The private correspondence of the officials of the United States abroad, and of the members of their families.

All such correspondence will be indorsed on the left upper corner of the envelope, thus: U. S. Legation at ———, A. B., Minister (or Chargé d’Affaires or Secretary). The signature of the officer will be regarded as a certificate that the letter comes within the above rule. Letters not so indorsed and signed will not be forwarded through the mails of the United States. Indorsement of correspondence.

4th. Matter transmitted at the request of any foreign Government to its representative in the United States. Letters from other members of the Diplomatic Corps may, if requested, be forwarded by a Minister or Chargé d’Affaires under cover to the Department.

112. Letters of unofficial persons, not members of their own families, are not to be sent by Diplomatic Agents to the Department of State with official dispatches, for transmission to persons in the United States. If any correspondence be ascertained to be of this character, it may be detained at the Department of State. Postage on unofficial letters.

WHEN BEARERS OF DISPATCHES MAY BE EMPLOYED.

113. It is expected that communications to the Department will be sent by mail; or, if by private hand, that no promise be made to the person so employed of compensation, or of a reimbursement of his expenses, without the previous authority of the Department, and that no ground of expectation of compensation or of reimbursement of expenses be given. It may happen that responsible private individuals offer their service, without expectation of compensation, for the conveyance of official communications to the Department, or from one legation to another. Such courteous offers may sometimes be accepted if deemed advisable. Communications sent by mail.
Private offers of service.

114. It is not intended to prevent Diplomatic Agents abroad from employing couriers at the public expense when the mails are obstructed, or deemed unsafe, and when there may be occasion to address the Department on subjects materially affecting interests of the United States which might suffer from delay or reasonably apprehended interruption in the transmission of the dispatch. The exercise of the utmost discretion is, however, enjoined in judging of these exigencies. Whenever the minister shall determine to send a courier, he will inform this Department of the fact, assigning the reasons therefor, and stating the compensation he recommends to be allowed him. The Secretary of State nevertheless reserves to himself the right in all cases to judge of the necessity for the employment of a messenger, and of the propriety of paying the whole or any part of the compensation which may have been recommended. This should be fully explained by the Minister to the messenger before intrusting him with the dispatches. When special couriers or dispatch agents may be employed.

When a bearer of dispatches is employed as above, a special passport may be given to him by the Diplomatic Agent, setting forth his name and the duty he is to perform. Such a passport is to be furnished without charge, and is only good for the journey for which it is issued.

LETTERS UNCALLED FOR.

Unclaimed letters.

115. All letters, except as below, addressed to the care or in the custody of Diplomatic Officers, remaining uncalled for for a period of six months, are, on the first days of January and July in each year, to be forwarded directly to the Post-Office Department as dead letters. The packet should be securely sealed, addressed to the "Post-Office Department, Dead Letter Office, Washington, D. C.," and forwarded as other official matter. It should be accompanied by a letter of advice showing the number of the inclosures.

Naval letters.

116. But letters intended for officers and seamen of the Navy in the Pacific and Asiatic squadrons, and letters intended for the crews of whaling vessels, may be retained one year before transmitting them to the Post-Office Department. Upon returning such letters an indorsement should be made on each, stating the reason for detaining it beyond the six months above described.

Not to be opened nor stamps removed.

117. Instances have occurred where dead letters returned from legations have been found opened, and where the stamps have been detached. As the post-mark is frequently indistinct, the removal of the postage-stamp often deprives the Post-Office Department of the means of ascertaining where such letters were originally mailed, without opening them, which, under treaty stipulations, it has no authority to do with letters mailed in a foreign state. Diplomatic Agents are, therefore, instructed to take care that letters received by them are not opened by unauthorized parties, and that they are not dispoiled of the stamps which they may bear on their arrival at the legation.

Article XII.—Passports and Protection of Citizens of the United States.

Passports, to whom issued.
Revised Statutes, secs. 4075–4078.

118. Passports are to be issued only to citizens of the United States, and are to be numbered, commencing with No. 1, and so continuing consecutively until the end of the incumbent's term of office. For a Diplomatic or Consular Officer to issue a passport to a person not a citizen of the United States is a penal offense punishable on conviction by imprisonment not exceeding one year, or by a fine not exceeding \$500, or both. Persons who have merely declared their intention to become citizens are not in the full sense citizens of the United States within the meaning of the law. Provided, that nothing herein contained is to be construed as in any way abridging the right of persons domiciled in the United States, but not naturalized therein, to maintain internationally their *status* of domicil and to claim protection from this Government in the maintenance of such *status*.

By whom issued.

119. Passports in the United States can be issued only at the Department of State. In foreign countries they can be issued only by the acting chief Diplomatic Representative; or in the absence of a Diplomatic Representative from the country, then by the Consul-General, if there be one, or, in the absence of both of the officers last named, by a Consul (Form No. 9 of the Consular Regulations). In the colonies of a country a passport may be issued by a Consul-General, if there be one;

otherwise by a Consul. The issue of passports by Consular Agents is prohibited. Professional titles will not be inserted in passports. A fee equivalent to five dollars in the gold coin of the United States must be charged and collected for each passport granted or issued by a Diplomatic Agent.

120. When an application is made for a passport by a native citizen, before it be granted the applicant must make a written declaration under oath, stating his name in full, age, and place of birth, supported also, if possible, by the affidavit of a creditable person, to whom the applicant is personally known, and to the best of whose knowledge and belief the declaration is true, and the Minister or Consul may require such other evidence as he may deem necessary to establish the applicant's citizenship. If the applicant claims to be a naturalized citizen, he shall also produce the original or certified copy of the decree of the court by which he was declared to be a citizen; and it is the duty of the Minister or Consul, at the close of each quarter, to transmit to the Department a statement of the evidence on which all such passports were issued or granted. The applicant should also, in both cases, be required to take the oath of allegiance, and the oath should be transmitted to the Department with the quarterly return. A passport issued from this Department, coupled with the proof that the person in whose behalf it is presented is the person named therein, may be taken as *prima facie* evidence of the citizenship of the applicant, within two years from its date. On what evidence.

121. It is understood that persons present themselves in some foreign countries to the Diplomatic or Consular Representatives of this Government with certificates of citizenship issued by a local or municipal officer, such as the mayor of a city, or a notary public, with a view to be registered as American citizens, that they may travel under the protection of such certificates. The laws of the United States permit the Secretary of State alone to grant or issue passports in the United States, and prohibit all persons "acting, or claiming to act, in any office or capacity under the United States or any of the States of the United States, who shall not be lawfully authorized so to do," from granting or issuing "any passport or *other instrument in the nature of a passport*, to or for any citizen of the United States, or to or for any person claiming to be, or designated as such, in such passport or *verification*." Such certificates, therefore, have no legal validity, and are not to be recognized. An instrument issued by an unauthorized person substantially in the form used by the Department of State is within the letter and intent of the prohibition of the statute. It is not material whether such instruments are issued in foreign countries or in the United States, and the prohibition applies equally to State, municipal, or Federal officers. Certificates of citizenship.
Revised Statutes, secs. 4075-4078.

122. Complaints have from time to time reached the Department of State of the issue of passports, or papers in the nature of passports, by Consular Officers when prohibited from doing so. In future it will be required that Diplomatic Officers shall make, in addition to the return hereinafter prescribed, a semi-annual return of passports to the Department, showing each passport issued by *Consular Officers* in any form which may have been presented to them for *visa* or otherwise. This report will embrace the name of the person to whom the passport was issued, whether such person is a citizen by birth or natur- Papers in the nature of passports prohibited.

alization, the date of issue, the name and title of the Consular Officer issuing the same, the form of the passport or paper, and also the several *visas* thereon, the dates thereof, and the names of the officers making the same.

Consular certificates of citizenship.

123. Certificates are sometimes issued by Consular Officers in countries where there is a Diplomatic Representative, attesting the identity of the persons to whom they are granted, to be used in the place of regularly issued passports for the purposes of travel or local protection. In countries where the local laws or regulations require the deposit of a passport during the temporary sojourn of a traveler, a Consular certificate setting forth the facts as appearing from the passport may be granted, but only to comply with the requirements of the local law or regulation. Certificates in the nature of passports, and to be used as such, are wholly unauthorized.

Visas of passports.

124. Passports are to be verified only by the Consular Officer of the place where the verification is sought, for which a fee of one dollar in the gold coin of the United States, or its equivalent, will be collected. In the absence of such Consular Officer, or should the foreign Government refuse to acknowledge the validity of the Consular *visa*, it may be given by the principal Diplomatic Representative. A diplomatic Representative or his Secretary of Legation may, however, verify passports presented to him when there is no Consulate of the United States established in the city where the Legation is situated. A Consular Agent may *visa* but cannot issue a passport.

Returns of passports.

125. At the close of each quarter, returns are to be made to this Department of the names of and particulars regarding the persons to whom the passport shall be granted, issued, or verified together with the amount of the taxes or fees collected for the same, which taxes or fees will be charged on the books of the Treasury against the person receiving them. The fees for *visas* or passports should be entered and accounted for in the regular quarterly statement of the Agent's account.

Married women and minors.

126. When the applicant for a passport is accompanied by his wife, minor child, or servant, it will be sufficient to state in the passport the names of such persons, and their relationship to or connection with him. A separate passport must be issued for each person of full age, not the wife or servant of another, with whom he or she is traveling.

No *visa* after two years.

127. No *visa* will be attached to a passport after two years from its date. A new passport may, however, be issued in its place by the proper authority, as hereinbefore provided, if desired by a holder who has not forfeited citizenship.

Irregular certificates.
Caution to be observed.

128. Applications have sometimes been made to the Diplomatic and Consular Officers of the Government for the issue of certificates of citizenship to persons residing in foreign lands and claiming to be American citizens. Hereafter no certificates will be issued, except in the form of passports under the regulations herein prescribed, unless a different form be prescribed by the laws of the country in which the Legation or Consulate is situated, in which case the Diplomatic Representative or Consul will transmit to the Department a copy of the prescribed form. To protect the dignity of such citizenship, and to guard against fraudulent assumption of it, Ministers and Consuls will be strict in the observance of the rules herein laid down, and will exercise caution in issuing passports to applicants. When their intervention is invoked on behalf of citizens of the United States residing in foreign

countries, agents of the Government will be careful to remember that it is as incumbent on such persons as it is upon the citizens or subjects of those foreign countries to observe the reasonable laws of the State in which they reside.

129. When the Diplomatic Agent is satisfied that an applicant for protection has a right to his intervention, he should interest himself in his behalf, examining carefully into his grievances. If he finds that the complaints are well founded, he should interpose firmly, but with courtesy and moderation, in his behalf. Interposition of Agent.

130. The United States have treaties with several powers regulating the rights of naturalized citizens of the United States on their return to their native lands. Abstracts of those several treaties are given in Appendix 2 of the Consular Regulations. Treaties as to naturalized citizens.

131. It is provided by law that "all children born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be, at the time of their birth, citizens thereof, are to be declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States." That the citizenship of the father descends to the children born to him when abroad, is a generally acknowledged principle of international law. Revised Statutes, sec. 1993.

132. It is further provided by law that any woman (who might lawfully be naturalized under the existing laws), married, or who shall be married, to a citizen of the United States, shall be deemed and taken to be a citizen. The recognition of this citizenship will be subject to the qualification above referred to. It is also provided (Rev. Stat., 2168) that when any alien who has made declaration, dies before he is actually naturalized, the widow and children of such alien shall be considered as citizens of the United States upon taking the oaths prescribed by law. Citizenship of married women. Revised Statutes, sec. 1994.

133. Abuses which have heretofore occurred in granting protection from the local authority in eastern countries, and especially in the Turkish dominions, to persons who, in the opinion of this Department, had no claim thereto, render it advisable that the Legations and Consulates there should, once in six months, report the number, names, and occupations of the persons to whom, during the six months preceding, such protection may have been given, or by whom it may have been claimed. Such report will in future be expected to be made at the beginning of every January and July. It is believed that sound policy dictates the utmost scrutiny and caution in extending the protection of this Government to any persons abroad not citizens of the United States. This policy, scrupulously adhered to, is apt to afford more efficient protection to those to whom it is really due. Such protection should in no event be given to aliens not actually in discharge of official duty under the direction of the respective Diplomatic Agents and Consular Officers or employed in their domestic service, or when it will operate to screen the holder from prosecution for offenses against the laws of the country, or when reasonable ground exists for objection by the Government. No instrument in the nature of a passport should be issued to aliens thus protected: it will be sufficient to grant, when necessary, a certificate setting forth their relation and duties in connection with the Legation or Consulate. Protection in Oriental countries.

Special caution.

DUTIES TOWARD AMERICAN CITIZENS.

Duties toward American citizens. **134.** The powers and duties of Diplomatic Officers in regard to their fellow-citizens depend in a great measure upon the municipal law of the United States. No civil jurisdiction can be exercised by them over their countrymen without express authority of law, or treaty stipulation with the State in which they reside, and no criminal jurisdiction is permitted to them in Christian States. They are particularly cautioned not to enter into any contentions that can be avoided, either with their countrymen or with the subjects or authorities of the country. They should use every endeavor to settle in an amicable manner all disputes in which their countrymen may be concerned, but they should take no part in litigation between citizens. They should countenance and protect them before the authorities of the country in all cases in which they may be injured or oppressed, but their efforts should not be extended to those who have been willfully guilty of an infraction of the local laws. It is their duty to endeavor, on all occasions, to maintain and promote all rightful interests, and to protect all privileges that are provided for by treaty or are conceded by usage. If representations made to the authorities of the country fail to secure proper redress, the case should be reported to the Department of State.

Claims.

The interposition of Diplomatic Agents is often asked by their countrymen to aid in the collection of claims against the Government to which they are accredited. If the claim is founded in contract, they will in no event interfere without specific instructions to do so. If it is founded in tort, they will as a general rule in like manner seek previous instructions before interfering, unless the person of the claimant be assailed, or there be pressing necessity for action in his behalf before they can communicate with the Department; in which event they will communicate in full the reasons for their action.

Aid to destitute Americans not authorized.

135. There is no appropriation or authority for the relief by a Diplomatic Officer of a distressed citizen of the United States, or for furnishing him transportation home. The exception in the case of seamen falls under Consular administration.

Social relations with American citizens.

136. While the social relations of a Diplomatic Agent to his own countrymen resident in or visiting the capital where he resides should be cordial, they have no claim upon his hospitality requiring him to assume expenses or burdens not in accord with his official duties or compensation.

Article XIII.—Marriages, Estates of Deceased American Citizens, and Unofficial Services.

MARRIAGES.

To be performed in the presence of a Consul. Revised Statutes, sec. 4082. **137.** It is enacted by statute that “marriages in presence of any *Consular* Officer of the United States in a foreign country, between persons who would be authorized to marry if residing in the District of Columbia, shall be valid to all intents and purposes and shall have the same effect as if solemnized within the United States.” As under the Constitution of the United States the States have exclusive power of determining the conditions of marriage and divorce as to persons domiciled within their borders, this statute only covers marriages by persons domiciled in the District of Columbia or in the Territories.

The statute does not exclude modes of solemnization other than that in presence of a Consular Officer. Marriages abroad, by citizens of the District of Columbia, or of the Territories, when not in the presence of

a Consular Officer, if otherwise valid, are not invalidated by the above statute. The statute does not authorize the Consular Officer to perform the ceremony. All that is prescribed is that it is to be in his presence.

As it is a principle of international law that the law of the place of solemnization shall, whenever this is practicable, determine the mode of solemnization, Consuls, when giving their sanction to a proposed marriage of this class, should be satisfied (1) that the parties are domiciled in the District of Columbia or in the Territories, and (2) that the requirements of the law of the place of celebration should be as far as practicable complied with. It is not intended, however, in these instructions, in any way to question or modify the principle of international law that while the form of solemnizing marriage is determined ordinarily by the law of the place of solemnization, exceptions are recognized, (1) when it is impossible to use such form, (2) when it is repugnant to the religious convictions of the parties, (3) when it is not imposed on foreigners by the sovereign prescribing it, (4) when the ceremony is performed, as will be seen in a subsequent clause, in a non-Christian or semi-civilized country.

Performance of the ceremony.

Capacity of parties and form of solemnization.

In Massachusetts, where the service must be performed by a licensed minister or a justice of the peace, a statute has been adopted validating marriages before foreign consuls and in foreign legations. This may be the case with other States.

As a general rule, matrimonial capacity is determined by the law of the place of domicile of the party in question.

Solemnization by a clergyman or magistrate is not necessary to the validity of a marriage in most jurisdictions in this country.

The rule as to prevalence of local forms does not apply to non-Christian or semi-civilized countries where Consular courts are established. In those countries the Consular Officer will have to determine, so far as concerns persons domiciled in the District of Columbia or in the Territories, whether the parties would be authorized to marry if residing in the District of Columbia or in one of the Territories. His duty, so far as concerns persons domiciled in a State, is to inquire whether they are authorized to marry in such State. It is held, also, in respect to a Consular Officer in such countries that the right to perform marriage is incident to the judicial office, and consequently that he may solemnize the ceremony if it is the wish of the parties that he should do so. It is deemed preferable, however, in such cases, where there is a duly qualified minister of a religious denomination whose services can be obtained, that the ceremony should be performed by him, and that the Consular Officer should confine himself to granting the certificate before mentioned.

In non-Christian countries.

7 Op. Atty. Genl., 18.

138. The statutory provisions refer only to Consuls. It is not unusual for Americans abroad to ask permission to have a marriage ceremony performed in the Legation, and in the presence of the Minister. There is no reason why a Minister or Chargé should not comply with this request. But it is proper, at the same time, to inform the parties making the application that, in the opinion of the Department, a ceremony of marriage, performed within the precincts of a Legation, should with the above limitations comply with the requirements of the laws of the country within which the Legation is situated.

Performance of the ceremony in a legation.

139. Whenever an application is made for the use of the Legation for such a purpose, it will be the duty of the principal Diplomatic Representative to inquire whether the parties may lawfully marry according to the laws of the country in which the Legation is situated; and

Preliminary inquiries.

whether the proper steps have been taken to enable the marriage ceremony to be legally performed according to such laws. If either of these inquiries should be answered in the negative, or if the case does not fall within one of the exceptions above stated, it will be his duty to inform the applicants that he cannot permit the ceremony to be performed in the Legation, as there may be grave doubts respecting its validity.

If it is desired in such cases by citizens of the District of Columbia or of the Territories to avail themselves of the statute above recited, then the Diplomatic Representative should inform them that under the laws of the United States it will be necessary to have the principal Consular Officer of the United States present, and he should give them an opportunity to have such officer present, if they desire it.

Certificate to be given by the Consul.

140. In all cases of marriage before a Consular Officer, the Officer shall give to each of the parties a certificate of marriage, and shall also send a certificate thereof to the Department of State, there to be kept.

This certificate must be under the official seal and must give the names of the parties, their ages, places of birth and residence, the date and place when and where the ceremony was performed, and state that the marriage took place before the Consular Officer giving the certificate. (Form No. 87 of the Consular Regulations of 1881.)

The Statute (Rev. Stats., sec. 4082) does not authorize a Diplomatic Officer to witness or certify to a marriage ceremony performed before him.

LAWS RESPECTING THE AGE OF MAJORITY, MARRIAGE, AND LETTERS ROGATORY.

Age of majority. **141.** In Appendix IV of the Consular Regulations of 1881 are inserted circular instructions to Diplomatic and Consular Officers in regard to the laws in force in the United States respecting the age at which persons attain their majority in the several States and Territories; those respecting births and marriages, and the statutes in refer-

ence to letters rogatory for taking testimony in the United States. It is believed that the information contained in those instructions will be useful to Diplomatic Officers.

ESTATES OF DECEDENT AMERICAN CITIZENS.

Action of Diplomatic Agent where there is no Consulate.

142. If there be no Consulate of the United States established at the seat of the Mission, the competence and duty of the principal Diplomatic Agent there will usually be recognized by the local authorities in regard to the estates of citizens of the United States dying intestate within his jurisdiction. In such instances, the Diplomatic Agent should be governed as to details by the tenor of the instructions for the guidance of Consuls under like circumstances, as found in paragraphs 384 to 413 of the Consular Regulations of 1881.

Proceedings to be reported.

143. In following those instructions, in all cases where a Consular Officer is required to make report or return to the Treasury Department, a Diplomatic Agent, not having superadded Consular functions, will report and make return to the Secretary of State.

EXAMINATION OF TITLES AND OTHER UNOFFICIAL SERVICES.

Unofficial services discouraged.

144. Diplomatic Officers are frequently asked by their countrymen at home to examine titles, investigate the record of private claims,

or do other services for them in a foreign land. It is sometimes even assumed that parties making the requests have a right to such services. Diplomatic Officers will treat all such requests courteously, and referring to this instruction, will state that the request cannot be complied with unless specific instructions to do so are received from the Department of State.

Diplomatic Officers are absolutely forbidden to indorse notes, bills of exchange, or in any other way to become responsible pecuniarily for American citizens or others.

Diplomatic Officers will always refuse to permit the use of their names as references for business or other enterprises. Indorsements and loans.

Article XIV.—General Relations to Consular Officers.

145. The general relations of the Consular establishment of the United States in a foreign country to the Diplomatic Agent accredited thereto are fully laid down in the Consular Regulations of 1881 (sections 102 to 115). The Diplomatic Officer should especially acquaint himself with those sections for his guidance. Use of name as reference.
Prescribed in the Consular Regulations.

Some of the more important cases springing from such relationship between the Diplomatic and the Consular Officers are embraced for convenience in the following paragraphs: Special cases.

GENERAL SUPERVISION.

146. The Diplomatic Representatives in countries where there is no Consul-General with supervisory powers will continue, as heretofore, to exercise a general supervision over the Consular Offices within their respective jurisdictions. And, generally, these Representatives will maintain such correspondence with Consular Officers in the countries to which they are accredited as they may deem conducive to the public interest. It will be the duty of Consular Officers to endeavor in all cases to comply with the requests and wishes of their superiors. Duties of Diplomatic Representatives.

The Consuls-General will exercise, to the extent provided for in the Consular Regulations and Instructions, the supervisory powers over the Consuls and Consulates within their respective jurisdictions which in other cases are vested in the Diplomatic Representatives of the United States. Consuls-General.

The several Consuls subordinate to them will not correspond officially with the Diplomatic Representatives of the United States, unless in reply to communications or inquiries from them, but will make all their representations through the Consulate-General. Correspondence of Consuls.

In their turn the Consuls-General will maintain the relations to the Ministers in the countries where they reside that Consuls do to Diplomatic Representatives in other countries. The Consul-General in Cuba is, however, only responsible to the Department of State. Relations of Consuls-General to Diplomatic Representatives.

Requests for leaves of absence or for the appointment of Vice or Deputy Consuls or any of the subordinate officers mentioned in sections 22, 23, and 32 of the Consular Regulations of 1881, when preferred by principal Officers in the Argentine Confederation, Belgium, Bolivia, Chili, Hawaiian Islands, Netherlands (except the colonies), Peru, Sweden and Norway, Uruguay, and Venezuela, must be accompanied by the written approval of the Diplomatic Representative of the United States. Leaves of absence and appointments in certain countries.

TEMPORARY APPOINTMENTS AND SUSPENSIONS.

Subordinate appointments by Diplomatic Representatives.

147. In case a vacancy occurs in the offices both of Consul and Vice-Consul, which requires the appointment of a person to perform temporarily the duties of the Consulate, the Diplomatic Representative has authority to make such appointment, with the consent of the foreign Government and in conformity to law and the Consular Regulations, immediate notice being given to the Department of State. In those countries, however, where there are Consuls-General, to whom the nominations of subordinate officers are required to be submitted for approval, the authority to make such temporary appointments is lodged with them. Immediate notice must be given to the Diplomatic Representative of the proposed appointment, and if it can be done within a reasonable time, he should be consulted before the appointment is made. If such a vacancy should occur in a Consulate-General, the temporary appointment will be made by the Diplomatic Representative.

Suspension by Diplomatic Representatives.

148. Occasions may arise in which the official or personal conduct of a Consul or Commercial Agent is of a character making it desirable and proper, in the interests of good service, that he should at once be suspended from his functions. Under the general supervisory authority conferred upon a Diplomatic Representative, this power may be exercised so far as to suspend temporarily an Officer until the decision of the Department of State can be made known. Such an extreme measure, however, should be resorted to only in cases of grave misconduct, and in no case when the reasons deemed to justify it can be promptly communicated to the Department.

EXEQUATURS.

Commission and exequatur.

149. When a Consul is appointed it is the practice of the Department of State to send the Consular commission to the Diplomatic Representative in the country to which the Consular district belongs, with instructions to apply in the proper quarter for an exequatur, by which the Consular Officer is officially recognized and authorized to discharge his duties. When the exequatur is obtained, it is transmitted to the Consular Officer at his post, through the Consulate-General, if there be one in the country; otherwise, directly to his address. The Consular commission is also sent to him at the same time. It is usual, also, to apply in

Subordinate officers.

the same manner for the exequaturs or formal recognition of subordinate officers. The practice in respect to such officers in the colonies or dependencies of a country is to instruct the Consul-General, or the principal Consular Officer, if there be no Consul-General, to apply to the proper colonial authority for permission for the subordinate to act temporarily in his official capacity, pending the result of the request for the exequatur. Upon the application of the Consular Officer, or of the Consul-General when there is one, the Diplomatic Representative may make to the Minister for Foreign Affairs such request for temporary permission to act, in the case of any Consular Officer under his jurisdiction.

Temporary permission to act.

INTERVENTION OF THE DIPLOMATIC AGENT WITH THE LOCAL GOVERNMENT TO SECURE CONSULAR RIGHTS.

Application to authorities.

150. In countries with which the United States have treaty stipulations providing for assistance from the local authorities, Consular Offi-

cers are instructed that it is undesirable to invoke such interposition unless it is necessary to do so. In cases of arrest and imprisonment they will see, if possible, that both the place of confinement and the treatment of the prisoners are such as would be regarded in the United States as proper and humane. If a request for assistance is refused, the Consular Officer should claim all the rights conferred upon him by treaty or convention, and communicate at once with the Diplomatic Representative in the country, if there be one, and with the Department of State. When such requests are made in accordance with long-established usage, he should, when they are refused, make suitable representations to the proper local authority, and likewise advise the Legation and the Department.

Article XV.—Judicial Extraterritorial Rights and Functions of Diplomatic Agents.

151. By treaty stipulations with most non-Christian countries, the United States has acquired a right of extraterritoriality. Secured by treaties in certain countries.

Congress has enacted certain statutes for carrying into effect the provisions of treaties in this respect by conferring judicial powers upon Consular Officers and original or appellate jurisdiction upon Diplomatic Agents. These statutes are embraced in sections 4083 to 4130, inclusive, of the Revised Statutes. It is the duty of all Diplomatic Agents in those countries to acquaint themselves with these provisions of law. Statutory enactments. To be carefully studied.

For the convenience of the Diplomatic Agent, certain particulars concerning his original powers and functions, and his advisory, supervisory, or appellate relations to Consular Officers exercising extra territorial jurisdiction in the same country, are herein given, premising that our legislation on the subject is in a very unsatisfactory and uncertain condition, which Congress has been asked to remedy. Certain special cases.

WHAT LAWS TO GOVERN PROCEEDINGS.

152. The jurisdiction of both Ministers and Consuls in criminal and civil matters is to be exercised in conformity, 1st, with the laws of the United States; 2d, with the common law, equity, and admiralty; and, 3d, with decrees and regulations, having the force of law, made by the Ministers of the United States in each country, respectively, to supply defects and deficiencies in the laws of the United States, or the common law, as above defined. Jurisdiction, how exercised. Revised Statutes, sec. 4086.

153. This power of the Minister to make laws and regulations is limited, by construction of the Department, as not imparting to him an arbitrary power of legislation, but as remedial and confined to acts necessary to organize and give efficiency to the courts created by the act. Power of Ministers to make laws.

154. The authority conferred by the statute is defined to be a *judicial* authority. The Minister is required to execute the power in *conformity with the laws of the United States*, with authority to supply defects and deficiencies in two cases only: 1. Where those laws are not adapted to the exercise of the judicial authority conferred by the statute; 2. Where they are deficient in provisions to furnish suitable remedies. In each of these contingencies the Minister has authority to make regulations in order “*to furnish suitable and appropriate remedies*,” Definition of such authority.

Act of June 22, 1860, Statutes at Large, vol. 12, p. 73. and for no other purpose whatever. Every power named in the statute in this respect is conferred upon the Minister, "*in order to organize and carry into effect the system of jurisprudence.*"

FORMS OF PROCEEDINGS.

Forms of proceedings.
Revised Statutes,
sec. 4117, 4120.

155. It is provided that the Ministers shall prescribe the forms of all processes to be issued from the Consular Courts, the mode of executing and the time of returning the same; the manner in which trials shall be conducted, and how the records thereof shall be kept; the form of oaths for Christian witnesses, and the mode of examining all other witnesses; the costs to be allowed to the prevailing party, and the fees to be paid for judicial services; the manner in which all Officers and Agents to execute process shall be appointed and paid; the form of bail bonds, and the security which shall be required from the party who appeals from the decision of a Consul. He is required to make from time to time such further decrees and regulations as may be necessary. It is his duty also to establish a tariff of fees for judicial services, to be paid by such parties and to such persons as he shall direct.

How prepared and published.
Revised Statutes,
sec. 4118.

156. The statute further provides that all such regulations, decrees, and orders shall be plainly drawn up in writing, and submitted, as hereinbefore provided, for the advice of the Consuls, or as many of them as can be consulted without prejudicial delay or inconvenience, and each Consul shall signify his assent or dissent in writing, with his name subscribed thereto. After taking such advice, and considering the same, the Minister in each of those countries may, nevertheless, by causing the decree, order, or regulation to be published with his signature thereto, and the opinions of his advisers inscribed thereon, make it binding and obligatory, until annulled or modified by Congress; and it shall take effect from the publication or upon any subsequent day named in the act.

Revised Statutes,
sec. 4119.—Act of
June 22, 1860,
Stats. at Large,
vol. 12, p. 73.

All such regulations, orders, and decrees shall, as speedily as may be after publication, be transmitted by the Ministers, with the opinions of their advisers, as drawn up by them severally, to the Secretary of State, to be laid before Congress for revision.

Forms in Consular Courts.

157. The forms and practice in each Consular Court have now become settled by usage. Each Consul is required to conform to them. Should he find defects in any part of the existing system, he will call the attention of the Diplomatic Representative of the United States to them. The power of directing a change is vested in that Officer by law and should be exercised, if called for by circumstances, in the manner prescribed in the foregoing sections.

LIMITATION OF CONSULAR JURISDICTION.

Powers of Consuls.
Revised Statutes,
secs. 4087, 4090,
4109.

158. The power of commencing original civil and criminal proceedings is vested in Consular Officers exclusively, except that capital cases for murder or insurrection against the Government of either of the countries named in the statute, or offenses against the public peace amounting to felony under the laws of the United States, committed by citizens of the United States, may be tried before the Minister. Original jurisdiction is vested in the Ministers also in cases where the Consular Officer is interested either as party or witness.

JURISDICTION IN CAPITAL CASES.

159. A perusal of the several sections of the existing statutes may leave the Diplomatic Agent in doubt as to whether it was the intention of Congress to make his jurisdiction in capital cases exclusively original, or exclusively appellate, or either as the case may be, or simply revisory. Section 4084 gives to *Ministers and Consuls* in China, Japan, Siam, Egypt, and Madagascar power to arraign and try "all citizens of the United States charged with offenses against the law." Section 4086 refers to the jurisdiction so conferred as exercisable "in both criminal and civil matters." Section 4087 authorizes each of the Consuls at ports in the above-named countries to arrest and try all offending citizens of the United States. Section 4090 provides that capital cases may be tried before the Minister if allowed jurisdiction by treaties. Section 4091 authorizes each of the Ministers in the countries named "to hear and decide all cases, criminal and civil, which may come before him, by appeal," in cases where appeal is provided. Section 4102 provides that insurrection or rebellion against the Government of either of those countries, and murder, shall be capital offenses punishable with death, but no person shall be convicted unless the Consul and his associates all concur, and the Minister also approves of the conviction. Section 4106 provides that where the Consul shall be of the opinion that associates will be useful, there shall not be less than four such associates in capital cases. Section 4108 provides that the jurisdiction allowed by the Ministers in the countries named above shall be exercised by them in those countries wherever they may be. Section 4109 provides that the jurisdiction of the Minister, in all matters of crimes "except in capital cases * * * shall be appellate only."

Capital cases.

Statutory provisions as to jurisdiction.

If in doubt on these points, it may be advisable, wherever there is a Consular Court established, for the Diplomatic Agent to confine his jurisdiction to matters of revision and appeal, as the course most consonant with the usual principles of justice which it is made his duty to apply.

Jurisdiction of Minister in capital cases preferably appellate.

160. The Statute provides that in the case of a conviction entailing the death penalty, it shall be the *duty* of the Minister to issue his warrant for the execution of the convict, appointing the time, place, and manner; but if the Minister is satisfied that the ends of public justice demand it, he may from time to time *postpone such execution*; and if he finds mitigating circumstances which authorize it, he may submit the case to the President for pardon.

Execution of the death penalty. Revised Statutes, sec. 4103.

161. As this provision stands, it appears to make the Diplomatic Agent the sole judge of the propriety of extending Executive clemency to the convict. It was probably not the intent of Congress to bar the exercise of the President's power of pardon at the discretion of a Diplomatic Agent; and it would be manifestly improper as well as of doubtful constitutionality to do so in the possible case of conviction being had before the Officer whose duty it is made to execute the sentence. In cases coming under this statutory provision, the Department of State deems it advisable that the Diplomatic Agent should always regard the ends of public justice as requiring postponement of the execution until the case is reported and copies of the judgment and testimony are transmitted to the Department of State and the President's views in the premises shall have been received.

When the President's views may be requested.

ASSOCIATES.

Revised Statutes,
sec. 4106.

162. Consuls may also, when of opinion that legal questions may arise in which assistance will be useful, or that a punishment in excess of one hundred dollars' fine or sixty days' imprisonment is required, summon associates, citizens of the United States, not more than four in number, taken by lot from a list to be previously approved by the Minister, to sit with them on the trial, each of whom is to enter upon the record his judgment and opinion, and to sign the same; but the Consul himself gives the judgment in the case, whether it accords with that of his associates or not.

Revised Statutes,
secs. 4102, 4106.

163. In trials for capital offenses, there must be not less than four associates, who must all agree with the Consul, and the opinion must be approved by the Minister before there can be a conviction.

Revised Statutes,
sec. 4106.

164. It is the duty of a Consular Officer after arrival at his post to make himself acquainted with the leading resident citizens of the United States, in order that he may nominate for the approval of the Minister a list of individuals for the purposes of the statute.

List of associates.

165. The list should be full, so as to embrace, if possible, every interest in the community. It should be composed exclusively of citizens of the United States of good repute residing at the place. From time to time it should be revised. No person should be permitted to act as an associate on a trial who has any interest, direct or contingent, in the suit.

Associates may
be summoned by
Ministers also

166. Section 4106 of the Revised Statutes seems to give Consuls only the discretionary power to summon associates. In practice, however, it is customary for the Minister to exercise this power in cases where he has original jurisdiction.

SENTENCES.

Punishment to
conform to United
States laws.

167. In the infliction of punishments on persons convicted in Consular Courts, Diplomatic Agents as well as Consular Officers are expected to be governed by the provisions of the statutes of the United States prescribed for similar offenses, and will be careful that the sentence in each case is in conformity therewith.

SETTLEMENT OF CONTROVERSIES.

Settlement of
controversies.
Revised Statutes,
sec. 4093.

168. It is the duty of Diplomatic Agents equally with Consular Officers to encourage the settlement of controversies of a civil character by mutual agreement, or by submitting them to the decision of referees; and the form of such submission is to be acknowledged before the Officer. After hearing any case the referees are required to deliver their award sealed to the Officer, who is to open it in court. If he accepts the award he shall indorse the fact, and render judgment thereon. The parties, however, may always make a settlement before return is made to the Officer.

In criminal cases.
Revised Statutes,
sec. 4099.

169. In some criminal cases it is lawful for the parties concerned therein, with the assent of the Minister in the country, or Consul, to adjust or settle the same among themselves upon pecuniary or other considerations.

APPEALS.

Appeals.
Revised Statutes,
secs. 4091, 4093,
4094, 4095.

170. The Minister is authorized to hear and decide all cases, criminal and civil, which may come before him by appeal, and to issue all processes necessary to execute the power conferred upon him; and he is fully empowered to decide finally any case upon the evidence which

comes up with it, or to hear the parties further, if he thinks justice will be promoted thereby. He may also prescribe the rules upon which new trials may be granted, either by the Consul or by himself. Provision is also made for appeal in certain cases from the decision of the Minister to the circuit court for the district of California.

171. An appeal may be taken to the Minister from a decision of a Consul acting alone, where the fine exceeds one hundred dollars or the term of imprisonment for misdemeanor exceeds sixty days. Appeal to Minister.
Revised Statutes,
sec. 4089.

172. If associates sit with the Consul in criminal proceedings (except capital and except in the case mentioned in the preceding paragraph), an appeal can be taken to the Minister only in the event of disagreement between the Consul and any of the associates. When associates sit.
Revised Statutes,
sec. 4106.

173. In civil cases the consul is required to summon, under the statute, associates, therein described, to sit with him (1) when he is of opinion that the case involves legal perplexities, or (2) when the damages demanded exceed five hundred dollars. In a case in which the damages demanded do not exceed five hundred dollars, if he decide the case without aid, his decision is final. But in such cases, when associates sit with the consul, an appeal can be taken to the minister where there is a disagreement of opinion between any of the associates and the consul. In civil proceedings.
Revised Statutes,
sec. 4107.

Article XVI.—Miscellaneous Duties.

DIPLOMATIC OFFICERS ACTING FOR FOREIGN STATES AND SUBJECTS.

174. Diplomatic Officers are sometimes requested to discharge temporarily the duties of those of other countries. It may be proper as a matter of comity to accede to such requests, but not (unless under urgent circumstances) until permission has been granted by the Department of State. Diplomatic Officers, however, are prohibited by the Constitution (Art. 1, Sec. 9) from performing without the consent of Congress any duties for any foreign Government which involve the acceptance of office from such foreign Government. Ministers acting
for foreign States.

NEGOTIATION OF TREATIES.

175. Whenever a Diplomatic Agent of the United States is intrusted with the negotiation of a treaty or convention, a full power will be given to him. Full powers.

176. In case of urgent need a written international compact between a Diplomatic Agent and a foreign Government may be made in the absence of specific instructions or powers. In such cases it is preferable to give to the instrument the form of a simple Protocol, and it should be expressly stated in the instrument that it is signed subject to the approval of the signer's Government. Provisional negotiations without
full powers.

177. The Diplomatic Agents of the United States will adhere to the principle of the "*alternat*," in all cases where they shall have occasion to sign any treaty, convention, or other document, with the plenipotentiaries of other Powers. "Alternat."

178. For the convenience of Diplomatic Agents who may be instructed or empowered to negotiate and sign a treaty of convention with the Government of a country where another language than English is officially employed, the following explanatory regulations touching the clerical preparation of such instrument are given: Clerical form of
treaties in two
languages.

A. The texts of the two languages should be neatly engrossed in parallel columns on the same sheet, if possible, or on opposite pages of the same document. Two separate copies in different languages are not The two texts to
be parallel.

advisable, although this expedient is sometimes resorted to in the Eastern countries.

Observance of
the *alternat*.

B. In the copy to be retained by the Diplomatic Agent and transmitted to this Government, the United States is named first, in all places where the alternative change may conveniently be made, throughout both texts. Conversely in both texts throughout the treaty, the foreign Government is first named in the copy which it retains.

Relative position
of the texts.

C. The language of the Government which is to retain and publish the convention should always occupy the left-hand place in the copy to be delivered to it.

Fidelity of equiv-
alence enjoined.

D. The utmost care should be taken to insure the substantial equivalence of sense of the two texts, so as to exclude any erroneous effect due to translation. While a strictly literal translation is often harsh, and sometimes impossible, the absolute identity of the idea conveyed is indispensable. To this end the punctuation of the two texts should also be attentively scrutinized and brought into substantial conformity.

Exchange of
ratifications.

E. Inasmuch as in this country the pleasure of the Senate must be awaited before the treaty can be ratified, and as delays may accordingly supervene, it is the preference of this Government that it be provided that the ratification and the exchange of ratifications shall be effected "as soon as possible" rather than within a specified time.

EXTRADITION OF FUGITIVE CRIMINALS.

Extradition of
fugitive criminals.

179. Applications for extradition are made, as a rule, by the Diplomatic Representative. In case a Consul is charged with such a duty, he may expect to receive instructions from the Department of State or from the Diplomatic Representative.

DEPORTATION OF CRIMINALS, ETC., TO THE UNITED STATES.

Deportation of
criminals, &c.

Stats. at Large,
vol. 18, pt. 3, p.
477; also Stats.,
1881-'82, p. 214.

180. By the act of Congress of March 3, 1875, and August 3, 1882, it is made unlawful for certain persons to immigrate to the United States. Provision is made for the inspection of a vessel, if there is reason to believe that such persons are on board, and for their return at the expense of the vessel.

Diplomatic offi-
cers' duties.

Diplomatic Officers are enjoined to exert an active vigilance to prevent the deportation of these persons, and should they depart for the United States notice thereof should immediately be given that they may be stopped before landing.

Diplomatic offi-
cer may protest.

The shipping of known paupers or criminals to the United States is regarded as a violation of the comity which ought to characterize the intercourse of nations, and should be prevented by every proper measure.

MORMON EMIGRANTS.

Increase in Mor-
mon immigration.

181. The accessions to the polygamous Mormon community are largely drawn from the ignorant classes of Europe. A recent decision

Decision of the
Supreme Court.

of the Supreme Court of the United States has determined that the polygamy of Mormonism is a violation of the laws of the United States

Act of March 22,
1862.

respecting the crime of bigamy, the provisions of which are embraced in section 5352 of the Revised Statutes. A recent statute defines the offense of polygamy and provides for prosecution and punishment. It is believed that no friendly Power will knowingly lend its aid to attempts made within its borders against the laws and Government of the United States.

Accordingly, the Diplomatic Representatives of the United States in Great Britain, Denmark, Sweden and Norway, Switzerland, Germany, Austria-Hungary, Italy, Belgium, the Netherlands, and France, have heretofore been instructed to urge the subject upon the attention of the Governments to which they are accredited, in the interest not merely of a faithful execution of the laws of the United States, but of the good order and morality which are sought to be promoted by all civilized countries.

Instructions to
Ministers in cer-
tain countries.

TESTIMONIALS FOR THE RESCUE OF SHIPWRECKED AMERICAN SEAMEN.

182.—Congress makes annual provision to enable the President to award suitable testimonials in deserving cases where foreign shipmasters or crews of foreign vessels may have shown humanity or bravery with risk of life, in the rescue of shipwrecked American seamen, or the relief of American vessels in distress at sea. These testimonials are awarded in the name of the President and usually consist of some material gift.

Provisions for
testimonials for
saving life at sea.

How awarded
and presented.

It is the duty of Diplomatic Agents to report to the Department of State any instances which may come to their knowledge of acts of humanity and courage shown to shipwrecked American seamen by shipmasters or subjects of the foreign state. Such reports should give all accessible particulars necessary to reach a decision upon the propriety of awarding a testimonial in the cases, and the names of the deserving parties should, if possible, be accurately ascertained.

Meritorious cases
to be reported.

In no case, however, will a Diplomatic Agent take it upon himself to pledge the Government of the United States to any form of recognition.

Caution.

INFORMATION AS TO LIGHT-HOUSES, BUOYS, SHOALS, ETC.

183. Diplomatic Officers are expected to report all matters that may come to their knowledge affecting the navigation of waters in their districts, or that may be of public interest or advantage. All notices of the erection of new light houses, removals or changes in those established, the discovery or survey of shoals and reefs, changes in channels, the fixing of new buoys and beacons, and all subjects that concern the interests of navigation, should be communicated promptly to the Department of State. If published notices are sent, two copies should be furnished; and if they are in a foreign language they should, when practicable, be accompanied by translations.

Light-houses,
buoys, &c.

FORMS.

184. A limited number of forms adapted to the transaction of the business of a diplomatic mission is appended to these Instructions. These forms will be followed in all cases where their use is obligatory. Other forms suitable, with slight alteration, for use in diplomatic business, will be found in Appendix No. IX of the Consular Regulations for 1881, pages 507–597. If so desired, printed copies of any of these forms can be sent to the Diplomatic Agent.

Forms appended
hereto.

Other forms in
the Consular Reg-
ulations of 1881.

Article XVII.—Leaves of Absence.

185. In case of leave not being asked or granted, or if granted not availed of, in any one calendar year, the term for which such leave might have been granted cannot be added to the leave of a subsequent year.

Leaves of absence
not cumulative.

Compensation.
Revised Statutes,
sec. 1742.

186. Although the time for which leave may be granted is discretionary, the time during which compensation may be paid, under the statute, is not.

Leaves are of
two kinds.

Leaves of absence are of two kinds—simple leave, and leave with permission to visit the United States. The character of the leave desired must be distinctly expressed in the application. Both classes of leave are subject to the statutory conditions alluded to above. When leave of absence is granted to return to the United States, the term is computed from the day of arrival in the United States to the day of departure therefrom; but a reasonable time in addition is allowed for going to and returning from the officer's place of residence, provided a visit to his residence is made, but not otherwise. The transit allowance mentioned in section 1742 of the Revised Statutes, and for which the allotted times are scheduled in these regulations, is a maximum allowance to cover delay for any cause.

Travel.

The concession, during leave of absence, of any transit time for travel other than to and from the United States is impossible under the statute.

Limitation of
absences.

Revised Statutes,
sec. 1742.

187. It is the evident intent of Congress, as expressed in the statute, that Diplomatic Agents should not be absent from their posts more than sixty days in any one year, with the additional time necessary for the transit to and from their places of residence should they return to the United States; and that if they are absent more than that time they shall not receive compensation for such additional period.

Conduct of business while in the
country.

188. The Department does not regard the statute as requiring Diplomatic Agents to reside throughout the year at the seat of Government. There are long periods in every year when, by reason of the departure of the principal members of the Government from the capital, or from other causes, the public interests will not suffer should a member of a Legation reside temporarily at some other place in the same country. But in such case it is expected that the office of the Legation will be daily opened as usual for the transaction of business by a Secretary thereof, and that the Diplomatic Agent will fix his place of residence at some near and convenient point within the territories of the Power to which he is accredited, whence he can without delay visit the Legation whenever necessary, and can at any moment be summoned by telegraph; and he will, in such case, report to the Department the place where he thus establishes himself, the day of his departure from the seat of Government, and the day of his return thereto. With this exception a Diplomatic Agent will be regarded as at his post only when he is at the seat of Government.

Absence for ten
days.
Revised Statutes,
sec. 1741.
18 Stats., 77.

189. When a Diplomatic Officer is absent from his post for a period exceeding ten days at any one time, without permission previously obtained from the President through the Department of State, no portion of the salary or compensation of the office will be allowed for any time in excess of the ten days, unless the propriety and necessity of the absence shall be made clear to the Department. It is understood that the provision in regard to an absence of ten days was intended to meet those cases of sudden emergency which allow no sufficient time for communicating with the Department, and in which some serious detriment is likely to occur before a formal application can be acted upon. It is not to be assumed that an unauthorized absence of ten days can be taken as a matter of course.

190. Applications for leaves of absence must be made by post, and when replies to such applications are requested to be made by telegraph a sufficient reason must be given for the request. If the request be complied with, the expense of the reply will be chargeable to the Officer soliciting it.

Applications not to be made by telegraph.

191. Diplomatic Representatives will report to the Department of State, as they occur, all absences from their respective posts (as the *post* is above defined) exceeding forty-eight hours, whether by leave or otherwise; and all such absences are to be regarded as a part of the sixty days for which salary may be received while the Representative is absent during any one year. Accounts and certificates of absence for the use of Treasury Officials are to be made to conform to this instruction.

Absences to be reported.

192. The provisions laid down in the statute with respect to original transit to a post of duty are in like manner applicable to the transit journey to and from the United States while on leave of absence with express permission for such visit. Permission to visit the United States can never be implied.

Transit while on leave.
Revised Statutes, sec. 1742.

193. An Officer, ordered to another post of duty, may solicit leave of absence, with or without permission to return to the United States before proceeding to his new post. In no case can such leave, if granted, extend beyond the date when the vacancy created by the Diplomatic Officer's departure is filled by the arrival of his successor at the vacated mission; or beyond the term of sixty days in any one calendar year, as already explained.

Absence in case of transferred officers.

Article XVIII.—Secretaries of Legation.

194. The general duties and obligations of a Secretary of Legation are, from their nature, little susceptible of a minute definition, and must, therefore, in a great measure be determined by circumstances, or ascertained by the growing experience of the Minister at the head of the Legation.

General duties.

Upon all occasions the Secretary will be particularly on his guard against talking to others of the affairs of the Mission, or disclosing to them, directly or indirectly, anything connected with those affairs.

Reticence enjoined.

195. It is the duty of a Secretary of Legation to transcribe and dispatch the letters or communications of the Minister, to whomsoever addressed, upon the affairs of his Legation, as well as all dispatches and communications to his own Government and that to which he is accredited; to make and send duplicate copies of the same when necessary or required, and to record all such dispatches and communications in suitable books, to be carefully preserved with the archives of the Legation, as forming an essential and important portion of those archives. The proper classification, indexing, and custody of the originals of all dispatches, notes, and official communications addressed to the Minister or to the Legation, touching the affairs thereof, will also be under his immediate control; subject, of course, to the Minister's supervision and directions. It will be a Secretary's duty, moreover, habitually to attend, during the usual hours of business, at the office of the Legation, as well for the purpose of executing the duties above prescribed as for that of answering any official applications of his fellow-citizens or others. As the records, books, archives, seal, and cipher of the Legation are always supposed to be under the immediate care and

Clerical duties.

Care and custody of the archives.

Attendance during office hours.

superintendence of the Secretary of Legation, all due care and method will be expected on his part in the arrangement and preservation of them.

Subordination to minister.

196. As long as the Minister is present, the Secretary of Legation is not recognized by any Foreign Government as being authorized to perform a single official act other than as directed by the Minister himself ; and it follows, as a necessary consequence, that in his official conduct he is under the direction, and subordinate to the control, of his immediate superior.

ACTING AS CHARGÉ D'AFFAIRES *ad interim*.

How acting as chargé d'affaires *ad interim*.

197. If at any time, from circumstances or accident, the place of the principal Diplomatic Agent should become vacant, it will be the duty of the Secretary of Legation, in the absence of other provision on the part of this Government upon the subject, to retain the charge of the seal, cipher, records, books, and archives of the Legation, and to take upon himself the discharge of the ordinary functions of the Mission, as Chargé d'Affaires of the United States *ad interim*, till the vacancy be otherwise supplied. In the event of the Minister's absence from his post, by permission of the Department, the duties of Chargé d'Affaires *ad interim* will in like manner devolve upon the Secretary ; and in such case he will be duly presented by the Minister to the Minister for Foreign Affairs as the officer in charge of the Legation.

Compensation as chargé d'affaires *ad interim*.

198. It is to be distinctly understood that whenever a Secretary of Legation shall act as Chargé d'Affaires *ad interim*, this circumstance will not give him any other claim to compensation than that provided for the contingency by act of Congress. The compensation provided by the act of 18th August, 1856, is in lieu of his salary as Secretary of Legation, which under that act ceases during the time he shall so act as Chargé d'Affaires *ad interim*.

UNOFFICIAL SERVICES.

Notarial services. Revised Statutes, sec. 1750.

199. The existing statute authorizes a Secretary of Legation, equally with a Consul, to administer oaths, take depositions, and generally to perform notarial acts. This statute is not construed by the Department as mandatory on a Secretary of Legation. He is at liberty to act or to refuse to act, but it is thought that he will feel it his duty to accommodate persons desiring his services in a notarial capacity. When so acting, he is entirely outside of his official duties, and his compensation, if he receives any, will belong to him personally. Should a seal be required, he will use that of the Legation. Where there is a Consul of the United States in the city it is preferred that duties of this character be performed by him.

Seal of the legation to be used.

SECOND SECRETARIES.

Distribution of duties.

200. The duties of a Second Secretary of Legation are, in general, similar to those of a First Secretary of Legation, whom he assists in the performance of the work of the Mission as herein prescribed. In doing so, the wishes and directions of the Minister will govern the distribution of their joint duties.

No extra compensation if acting as First Secretary.

201. In the absence of the First Secretary of Legation, the Second Secretary, when there is one, is not entitled to any compensation beyond

the salary fixed for his office by law, for acting in place of, or performing the official duties assigned to, the First Secretary.

202. A Second Secretary of Legation does not act as Chargé d'Affaires *ad interim* except in the event of the absence, death, or disability of both the Minister and the First Secretary of Legation. Should the case arise, he needs no formal credence from the Secretary of State to the Minister for Foreign Affairs, but acts *ad interim* in virtue of his rank as a Secretary of Legation. His compensation in such a contingency will be as prescribed in the case of the principal Secretary of Legation.

Not to act as Chargé d'Affaires *ad interim* except in certain cases.

Compensation if so acting.

Article XIX.—Rents and Contingencies.

203. It is the custom of the Department to make an allowance to purely Diplomatic Agents for rent of offices.

Office rent. Revised Statutes, sec. 1706.

204. Where the office rooms devoted to the business and archives of the Mission are situated in the residence of the Diplomatic Agent, a moderate allowance is made to him, to an amount deemed sufficient to defray the proportionate rental of the rooms devoted to business purposes, as compared with the rental paid for the whole dwelling. This allowance is not intended as a contribution toward the Agent's personal expenses of living, but simply as an adequate and equitable arrangement.

Office rooms in the Agent's residence.

OFFICERS COMBINING DIPLOMATIC AND CONSULAR FUNCTIONS.

205. A number of Diplomatic Agents are, by law, also Consuls-General. Except as to salary drafts, their financial relations with the Department of State and the Treasury Department are in their Consular capacity only. In the matter of rent and contingent allowance, application should in each instance be made to the Department of State for instructions.

Combined office.

SPECIFIC ALLOWANCES.

206. *Stationery.*—Diplomatic Officers are allowed for such stationery as may be used in their *official correspondence only*. This is usually furnished by the Department of State, except to Legations at the principal capitals, where the facilities for obtaining such supplies well and economically are as good as in the United States, when the contingent allowance of the Mission is expected to cover the purchase. At any Legation, however, necessary articles of stationery may be bought, if they can be obtained at reasonable rates within the limits of the contingent allowance. In making requisitions upon the Department care should be taken to state what kind of stationery is wanted, and the quantity of each kind.

Stationery.

207. *Furniture.*—It is expected of Diplomatic Officers that their offices shall be suitably and respectably furnished. For this purpose they are generally allowed for furniture a book-case, and other cases capable of containing the archives, a suitable desk and table, and the necessary chairs, a sofa, carpet or matting, and curtains. In all cases, before incurring expense for furniture, Diplomatic Officers will obtain the sanction of the Department of State, and in their applications they will be careful to state the articles required and the estimated cost of each.

Furniture.

208. Foreign newspapers, not exceeding three in number, are allowed to each Legation, and are a charge against its contingent fund.

Newspapers

Subscriptions therefor should be settled quarterly, and the account rendered for the quarter corresponding to the subscription.

Two newspapers published in the United States will be sent to each Legation, in the discretion of the Department. These may be designated by the Chief of Legation on or before the 1st of May in each year, for the fiscal year beginning on the 1st of July following. A subscription which for any case may begin at another time shall be fractional only, not extending beyond the 30th of June next following, and express request for its renewal for a subsequent year must be made as above. Correspondence concerning the opening or renewal of subscriptions to these papers must be had with the Department, and not with the publishers. In no case will a Diplomatic Agent subscribe to any paper published in the United States and send the bill, or direct it to be sent, to the Department of State for payment.

Telegrams.

209. Telegrams will not hereafter be regarded as part of the ordinary contingent expenses of a Legation. An accurate account must be kept of all telegrams charged in the Ministers' accounts, which will be transmitted at the close of each month to the Department, at which time the Minister or Chargé may draw upon the Secretary of State for the amount paid for telegrams during the month.

Charges not allowed.

210. No allowance will be made to Diplomatic Agents for expenditures for the following objects: Repairs, donations, except the necessary and customary annual gratuities to foreign official dependents; taxes, carriage-hire, traveling expenses, unless authorized; contributions to chairtable or other objects; foreign flags; telegrams, except in cases of exigency; printed books or maps, advertisements; clerk-hire, unless provided for by law or under authority from the Department of State; or for copying or translations, except when made by special order and authority of the Department. All such charges, if incurred, will be at the personal expense of the head of the Legation. Repairs, however, of the official seal or of furniture, and the expense of moving the archives and property on a change of location of the Legation officers, are proper charges against the Government.

Repairs.

Article XX.—Special Provisions concerning Compensation.

COMPENSATION OF PERSONS FILLING TWO OFFICES.

Revised Statutes, sec. 1686.

211. The statute provides that when to any diplomatic office held by any person there is superadded another, such person shall be allowed additional compensation for his services, in such superadded office, at the rate of fifty per centum of the amount allowed by law for such superadded office.

Chargé d'Affaires *ad interim*.

Revised Statutes, sec. 1685.

Revised Statutes, sec. 1739.

When compensation for two offices is allowed.

Revised Statutes, sec. 1686.

212. This provision does not apply to a Secretary of Legation acting *ex officio* as Chargé d'Affaires *ad interim*, for his compensation is determined by another statute, nor to a Consul performing diplomatic duties.

213. It applies when a lawfully salaried Diplomatic Agent at one post is authorized and accredited to perform the duties of another post for which provision is likewise made by law; in which case the statute further allows transit time between the two posts at the same rate of fifty per centum of the salary of the superadded office.

Superadded office.

214. It also applies in the case of an Officer at a Legation authorized and required to discharge, in addition to his regular functions, the duties of another office at the same Mission; except where the

offices of Secretary of Legation and Interpreter are distinct and either Officer performs the duties of the other.

215. In either case, the instructions of the Department of State should be awaited before drawing for the compensation allowed for the superadded office, and rendering account therefor.

Instructions to be awaited before drawing compensation.

216. For such time as a Consular Officer may, under specific instructions to do so, perform diplomatic functions in the absence of the regular Diplomatic Officer in the country to which he is appointed, he is entitled, in addition to his compensation as such Consular Officer, to receive compensation for his diplomatic services at the rate allowed by law for a Secretary of Legation in such country. This rate has been fixed at fifteen per centum of the salary provided for the diplomatic Representative. In countries in which the United States have no such representative, a Consular Officer is not authorized to prefer any claim for extra compensation for services that may partake of a diplomatic character, whether performed under the instructions of the Department of State or otherwise. In case expenses are incurred in carrying out the Department's instructions, they will be reimbursed, if found proper on examination.

Pay when performing Diplomatic duties. Revised Statutes, sec. 1739.

COMPENSATION IN CASE OF MALFEASANCE.

217. A Diplomatic Officer will not be entitled to the compensation of his office in case he is recalled for malfeasance, or resigns in anticipation of such recall, except to the date of such resignation, or of the receipt by him, or at the Legation, of the notification of the recall. In neither case will compensation be allowed for the time occupied in the transit to the United States. The right is reserved in any such case to direct the retention of any part or the whole of the compensation and of any sum due to such officer, if the circumstances are deemed to justify that course.

Resignation or recall for malfeasance. Revised Statutes, sec. 1740.

TRANSFER OF A DIPLOMATIC AGENT TO ANOTHER POST.

218. In the event of a Diplomatic Agent, already at his post, being transferred to another Mission, that circumstance of itself gives him no right to home transit, to leave of absence, or to other allowance than that of direct transit time allowance in proceeding from his former post to his new one. While the Secretary of State may in his discretion order a Diplomatic Agent so transferred to come to Washington to receive instructions, yet the Officer may be instructed to proceed directly to his new post; and any failure to comply with the Department's orders in this respect will subject the Officer to loss of salary during any time when he shall not be at either post or in transit by the most usual and direct mode of conveyance from one to the other.

Limitations as to transit of transferred officers.

219. Salary during such time of direct transit will be computed on the basis of the salary of the post to which the Diplomatic Agent is proceeding, and he will render his accounts, and draw therefor, on arrival at his new post.

Salary for transit, how computed.

220. Should a Diplomatic Agent, so transferred, visit the United States, either on leave duly granted, or under the express instructions of the Department, his salary during the homeward transit, not to exceed the limits hereinbefore prescribed, will be paid on the basis of the office he vacates, and will be adjusted and settled at the Department of State, in like manner as any other homeward transit.

Transit to the United States when authorized.

Transit by way
of the United
States.

221. If the usual and quickest means of transit oblige a transferred Diplomatic Agent to pass through the United States on his way from his late post to his new one, and he be under orders to make the transit directly and without leave of absence, the fact of the Agent's passage through the United States will not be considered as a "visit" to the United States, or as dividing the total time of transit into two periods of homeward transit and transit to his new post; but his journey will be regarded as embracing one transit only, to be performed with all expedition, and to be accounted for as hereinbefore prescribed. In such a case the Officer will not prolong his stay in the United States, or deviate from the usual route of travel between the two posts, without the express authorization of the Secretary of State.

Instruction al-
lowance.

222. If the officer be ordered to report in Washington for instructions, he will be compensated for the time actually and necessarily employed in receiving them, not to exceed the statutory limit of thirty days, on the basis of the salary attached to his new post.

Transit to post
after being in-
structed.

223. His transit allowance to his new post, after he shall have received instructions as provided in the preceding article, will follow the usual rules hereinbefore laid down.

REPRESENTATION AT TWO OR MORE MISSIONS.

Residence to be
at the capital des-
ignated.

224. In some instances a single Diplomatic Agent is accredited as the representative of the United States to two or more foreign Governments. In such a case the capital of one of the countries is designated by the President as the official residence of the Agent, and the time allotted for transit is computed up to the date of his arrival at that capital. Should the Agent, thereafter, in the performance of his official functions, be called upon to visit the seats of government of the other country or countries to which he is accredited, no special time allowance for transit is prescribed, but he will conform to the specific instructions of the Department of State as to any allowance for traveling expenses.

Official visits to
other capitals.

OVERLAPPING.

Allowances not
to overlap.

225. In no case do the periods allotted for receiving instructions and for transit to the seat of the Mission overlap one another; neither can the transit allowance overlap the regular salary at the post of duty. During no one period of time can a Diplomatic Agent receive more than a single rate of salary.

Article XXI.—General Provisions concerning Drafts.

DRAFTS.

Drafts to be in
United States cur-
rency.

226. Drafts of Diplomatic Officers must not be made for foreign moneys of account, but for the equivalent value in the currency of the United States. In estimating the relative value of the foreign currency in which they may receive the proceeds of their drafts, they will adopt the values of foreign moneys as in the table of equivalents (Form No. 148, Consular Regulations, 1831, page 586).

Drafts for salary.

227. In their drafts for salary, Diplomatic Agents will be careful not to exceed, in the amount drawn, the sum to which they may be entitled in account with the United States at the date of the draft.

Contingencies.

They will be permitted to draw for the amount allowed to their respective Legations for contingent expenses, and for rent, at the begin-

ning of a quarter or from time to time during the quarter, as may be necessary; provided that drafts therefor shall in no case be drawn in excess of the proportion of the whole amount allowed to the part of the year which will at the close of such quarter have expired. All amounts drawn and all expenditures made must be accounted for at the end of each quarter.

228. If there should be any prospect of the interval between the retirement of a Diplomatic Agent and the arrival of his successor being prolonged, and the Legation is in the hands of the Secretary as Chargé d'Affaires *ad interim*, the Department of State, on due request being made to it, will authorize the Chargé to draw for the contingent allowance of the Legation by authorizing the bankers to honor his drafts for the contingent allowance until the arrival of the Minister. In such a case the Chargé d'Affaires *ad interim* becomes responsible and renders account in like manner as a Minister.

When a Chargé d'Affaires *ad interim* may draw contingent allowance.

229. Drafts for salary or for contingent expenses will be drawn as follows:

How drawn.

Officers in the Legations at Buenos Ayres, Vienna, Brussels, La Paz, Rio de Janeiro, Peking, Copenhagen, Paris, Berlin, London, Athens, Rome, Tokei, The Hague, Lima, Teheran, Lisbon, St. Petersburg, Madrid, Stockholm, Berne, Bangkok, Constantinople, and Caracas will draw upon the bankers of the Department in London, upon being furnished by the Department with proper credits therefor. All other Officers will draw upon the Secretary of State for salary and for contingencies.

For expenses incurred for telegrams, drafts will be made upon the Secretary of State, as hereinbefore prescribed.

For telegrams.

230. The Secretaries of Legation of Berlin, London, Paris, Peking, Rio de Janeiro, Vienna, St. Petersburg, Tokei, and Madrid receive letters of credit on the bankers of the United States in London, authorizing them to pay drafts for salary as it becomes due. The Secretaries of Legation at the City of Mexico, Santiago, and Lima draw for salary directly upon the Secretary of State. In availing himself of his credit or authorization to draw for salary, a Secretary of Legation will be careful not to exceed in the amount drawn for the sum to which he may be entitled in account with the United States at the date of his drafts.

How drawn.

Not to exceed amount due at date of draft.

231. All drafts drawn by Diplomatic Officers, whether on the Secretary of State or, in the case of those holding Consular office also, on the Secretary of the Treasury, are to be drawn at fifteen days' sight, *acceptance waived*, in order to give sufficient time to the accounting officers to adjust the accounts before the day of payment. Drafts for disbursements made for objects not expressly authorized by law or instructions must not be drawn until notice is received from the Department of State that the accounts and vouchers have been examined and approved.

To be drawn at fifteen days' sight.

232. Each draft must designate the account on which it is made, whether for salary or for contingencies; no draft should be drawn for both salary and contingencies jointly, and care should be especially taken that no draft cover any period of time embraced in more than one fiscal quarter. All sterling drafts must be at the rate of \$4.86 $\frac{65}{100}$ to the pound sterling. Convenient tables for reducing pounds sterling to dollars and *vice versa* at this rate will be found in the Consular Regulations for 1881, Forms Nos. 161 and 162.

Drafts to designate accounts on which drawn.

233. Whenever a draft is drawn by a Diplomatic Officer the blanks in the engraved forms transmitted by the Department of State should

Blank to be filled by drawer and sealed.

be filled up by the drawer in his own handwriting; and for still further protection against forgery, or the payment of fraudulent drafts, the draft should be sealed with the seal of the Legation.

Sale of drafts.

234. In disposing of their drafts Diplomatic Officers are expected to use their best discretion to negotiate them at the most favorable rates. It is necessary that they should state on the face of every draft for salary or authorized expenses the account for which it is made; and every draft for expenses authorized by special instructions should refer explicitly to the date and number of the instruction in which such authority was given. The same reference should appear in the corresponding account.

Loss by exchange.

235. Diplomatic Officers who desire that the losses by exchange *actually and necessarily sustained* in the negotiation or sale of their drafts shall be allowed at the Treasury are instructed that hereafter, in making up their accounts, they will be required to present a voucher in accordance with the prescribed form exhibiting—

1st. The date of draft.

2d. The amount of draft in United States currency.

3d. Gross amount of draft in foreign currency.

4th. The rate of exchange.

5th. Loss on sale of draft.

6th. Upon whom and on what account drawn.

Gain by exchange.

236. A *gain* by exchange in the sale of a Diplomatic Officer's drafts should be credited to the Government in the statement of account, and shown by a voucher in the form prescribed in the preceding section.

Indorsements by
procuration.

237. The accounting officers, who are required to see that no person receives money from the Treasury but by lawful title, cannot recognize indorsements by procuration unless on satisfactory proof of their sufficiency. To prevent the dishonor of such bills or drafts it may be well for Diplomatic Officers to observe the form prescribed with a view to overcome this difficulty.

Accounts must
precede or accom-
pany drafts.

238. Diplomatic Officers are explicitly informed that drafts except for current salary are not paid until the accounts and vouchers for which they are drawn have been received, examined, and approved; and that in order to secure payment, as well as to prevent embarrassment and delay to holders, it is necessary that the accounts should be sent so as either to precede the arrival of, or be received at the same time with, the drafts.

In the case of all drafts, and especially of drafts for salary, drawn upon the Secretary of State in pursuance of these instructions, a letter of advice should invariably be addressed to the Department of State, by the Diplomatic Agent, in which the date, amount, and particulars of the draft are stated in detail.

Article XXII.—Accounts and Vouchers.

GENERAL RULES.

To be stated in
United States cur-
rency.

239. All accounts of Diplomatic Officers, like their drafts, must be stated in the currency of the United States, not in foreign money of account or currency. The table of equivalents of foreign moneys will be found in Form No. 148 of the Consular Regulations of 1881.

To be made quar-
terly.

240. All accounts, except the final account, the accounts for salary while waiting instructions and while going to the post, and the monthly account for telegrams must be rendered at the close of the calendar

quarter, viz: On the 31st March, 30th June, 30th September, and 31st December. If not rendered on the day assigned, the Department must be advised of the reason of the delay, and the accounts must be forwarded by the earliest possible post, the duplicates following the originals by a later mail.

241. Diplomatic Officers are required to keep the following general accounts, viz: 1. Salary; 2. Contingent expenses; 3. Telegrams; 4. Loss by exchange. In case a special account for any other purpose is opened by order (as, for instance, for the arrest or extradition of a criminal), that account will be kept separate, and a separate return thereof made. Expenditures incurred for or by the order of any other Executive Department are not to be included in any account against the Department of State, but must be transmitted through the Department of State, following in this respect the general rule regarding correspondence with other Departments.

Titles of accounts.

Special accounts.

SALARY ACCOUNT.

242. The first salary account will be stated for the time, not exceeding thirty days, during which the Diplomatic Agent is receiving his instructions. The account should be submitted and the draft drawn before departure. No allowance of salary, however, on account of time occupied in receiving instructions is made when the appointee is out of the United States at the time of appointment. Salary begins at the date of the oath of office.

Salary account.

243. A separate account should be stated for the time occupied in the transit from the residence of the Diplomatic Agent to his post of duty.

Transit salary.

244. The final account should be accompanied by a dispatch stating the time actually and necessarily occupied in making the transit from the post of duty to the place of residence of the Officer. The allowance of salary in such a case is never granted until the transit has been made, and will not be allowed unless the transit takes place within a reasonable time after being relieved.

Transit home.

ACCOUNTS FOR CONTINGENT DISBURSEMENTS.

245. As the Diplomatic Agent is alone empowered by regular letter of credit to draw the contingent allowance of his Legation, he is responsible for its disbursement, and the accounts therefore must be signed by him.

Accounts for contingencies.

If a Minister at a Legation where there is a Secretary go away on leave, intending to return, he is expected to leave with the Secretary sufficient funds from his unexpended contingent balance to defray the current expenses of the office. This is necessary, as the Chargé d'Affaires *ad interim* cannot draw against the Minister's contingent credit. The contingent accounts, however, are not to be rendered by the Chargé d'Affaires, but should either be sent to the Minister while on leave, for his signature, or should preferably be held to await his return to his post.

Provision for contingencies during Minister's absence.

246. Accounts should be transmitted to the *Secretary of State*, in duplicate, each copy by a different mail, to guard against delay by loss or miscarriage. Exact vouchers in all cases of expenditure will be re-

Duplicates.

quired, and, when in a foreign language, must be accompanied by English translations; but as contingent expenses are sometimes incurred under circumstances not admitting of a regular voucher for every item, a separate account of these should be kept and certified by the Officer rendering the account.

SEPARATE ACCOUNTS.

Accounts to be
sent to Depart-
ment of State.

247. Besides the general accounts mentioned in section 241 the following separate accounts are to be transmitted in duplicate to the Department of State, viz: account for clerk-hire; account for pay of persons employed, but not formally commissioned, as interpreters, guards, and other expenses in non-Christian countries; account for rent of prisons, wages of keepers, and other expenses, in China, Japan, Siam, Turkey, and other non-Christian countries; account for expenses incurred in the arrest and transportation of persons charged with crime; account for expenses of acknowledging the services of masters and crews of foreign vessels in rescuing American citizens; and any account specially ordered by the Department of State.

VOUCHERS.

Vouchers.

248. Vouchers in a foreign language, not accompanied by translations, may be suspended by the accounting officers. In all cases they must be the originals, as copies of vouchers will not be audited. In case, however, it should be impracticable to obtain duplicate vouchers for any item, the original voucher should accompany the original statement of account, and a certified copy be sent with the duplicate statement with an explanation of the necessity for so doing indorsed thereon.

Postage.

249. Postage.—From the nature of the case, no voucher can usually be required for this disbursement beyond the personal explanation of the Diplomatic Agent. If, however, an account is kept with the local post-office, a voucher should be obtained from the postmaster, when practicable. Postage is not to be charged in the account of a Diplomatic Officer, except on dispatches and letters received and written by him on official business and by reason of his office. Vouchers for loss by exchange should be embraced in the statement of account thereof.

Loss by ex-
change.

ABSENCES, HOW STATED IN ACCOUNTS.

Absences to be
reported.

250. Each quarterly account for salary must be accompanied by a statement certified by the Officer, and showing the absences from the post during the quarter, and whether by leave or otherwise. All absences from his post exceeding forty-eight hours, whether by leave or otherwise, are to be reported by the Diplomatic Officer to the Department as they occur, and are to be regarded as a part of the sixty days for which salary may be received, while absent during any one year. If there be no absences during the quarter, a certificate of non-absence should accompany the quarterly account.

COMPENSATION OF BEARERS OF DISPATCHES.

251. The compensation of bearers of dispatches, when employed with an intention to compensate them, is not to exceed six dollars per diem for the time actually and necessarily occupied in that service, and their necessary traveling expenses.

VOUCHERS FOR UNEXPENDED BALANCE AT TERMINATION OF OFFICE.

252. A Diplomatic Agent, having resigned or having been recalled, and being about to quit his post, should turn over any unexpended balance of contingent allowance for the current quarter to his successor, or, if he quit his post before his successor's arrival, then to the Secretary of Legation who is to act as Chargé d'Affaires *ad interim*, and take his receipt therefor in duplicate. This receipt, with such vouchers as he may have up to the time of his departure, will be his quittance for the amount of contingent fund drawn by him and charged to his debit on the books of the Treasury. His statement of account will be made out up to the day of his taking leave or installing the Chargé d'Affaires in office.

Unexpended balance at close of term of office.

The Chargé d'Affaires will credit to the United States whatever official sums he may receive from the retiring Minister, and will duly account therefor, in his own name, with customary vouchers.

ACCOUNTS OF A CHARGÉ D'AFFAIRES AD INTERIM.

253. A Secretary of Legation acting as Chargé d'Affaires *ad interim* as herein provided will submit to the Department separate accounts at the end of such term of temporary charge, or if this extend beyond the last day of a regular quarter he shall render a like account for the partial periods to the end of the first quarter, and from the beginning of the succeeding quarter, and when approved, a special authorization to draw therefor will be given him. If, however, his necessities require, he can, while acting as Chargé d'Affaires *ad interim*, draw against his account as Chargé on the Secretary of State and discontinue the practice of drawing on the bankers or on the Department for his salary as Secretary of Legation, and at the end of the quarter, or of his temporary incumbency, on the approval of his accounts, special authority to draw will be given him for such further sum as may then be found due.

How rendered.

DEPOSIT OF PUBLIC MONEYS.

254. No authority can be given to a Diplomatic Officer under which he can be relieved of his liability for public moneys in his possession, deposited by him with banks or bankers, other than the designated bankers of the United States, and in the latter case the deposits must be made to the credit of the Government. All personal deposits otherwise made are at his own risk; and in the event of loss by failure or otherwise of the banks or bankers, the Department of State is without the power to relieve him from the necessity of making good the amount. Relief can be obtained only by an act of Congress.

Deposit of public moneys.

Article XXIII.—Termination of a Diplomatic Agent's Mission.

255. The Agent's resignation should always be tendered to the President, but the letter tendering such resignation should be addressed to the Secretary of State. The telegraph should not be resorted to except in case of emergency.

Resignation, how tendered.

256. A civil officer has a right to resign his office at pleasure, and to take effect it is only necessary that the resignation should be received by the President. This rigid construction is, however, not adhered to in practice in the case of Diplomatic Agents, and a conventional date is assigned when a resignation shall be deemed to take effect.

U. S. vs. Wright, 1 McLean, p. 509.

When it takes effect.

257. Resignation while at the Agent's post is always understood to take effect on his being relieved by his successor. If desired to take effect sooner, the circumstance should be stated in the letter of resignation, and be so accepted, before the incumbent quits his post.

Resignation while on leave in the United States.

258. Resignation while on leave of absence in the United States is understood to take effect from the date of its acceptance.

Resignation while absent.

259. If the Diplomatic Agent tender his resignation while absent from his post on leave, but not in the United States, it is understood, unless otherwise stated, that he will return to his Mission on the termination of his allotted leave and await the arrival of his successor; but if his successor reach the seat of the Mission before the termination of the Agent's leave of absence, his resignation and his leave of absence take effect and determine on the entrance of his successor upon the duties of his office by presentation of his credentials.

Return to post expected.

Resignation tendered to take effect at end of leave.

260. If a Diplomatic Agent, having received leave of absence (with or without permission to return to the United States), tender his resignation to take effect at the expiration of his leave of absence, it may be so accepted, provided the demands of the public service do not require that the vacancy be sooner filled; and if so filled, the retiring officer's leave shall be held to terminate thereby.

Transfer.

261. A Diplomatic Agent may be transferred to another post, either upon his own application, if circumstances make it advisable to accede to his request, or in the discretion of the President. If the latter be the case, his non-acceptance of the arrangement does not give him any claim to remain in his former office.

Recall at pleasure of the President.

262. A recall is usually accomplished at the pleasure of the President, during a session of the Senate, by sending to that body the nomination of the Officer's successor. Upon the confirmation and commission of his successor, the original incumbent's office ceases. He is, however, expected to remain at his post until duly relieved. If circumstances require otherwise, the case must be governed by the special instructions of the Secretary of State. In any case his official functions do not cease until he has received notification of the appointment of his successor, either by specific instruction of the Department of State or by the exhibition of his successor's commission.

When functions cease.

Opinions of Attorneys-General, v. 6, p. 87.

Recall while on leave.

263. A Diplomatic Officer may be recalled while on leave of absence, and his successor appointed, as above. In such case, his office, and with it his leave of absence, ceases on the receipt by him of official notification of the fact.

Suspension. Revised Statutes, sec. 1768.

264. The statute provides that during any recess of the Senate the President may, in his discretion, suspend any civil officer appointed by and with the advice and consent of the Senate (except judges of the courts of the United States), until the end of the next session of the Senate. Meanwhile the duties of the office are to be temporarily discharged by a person properly designated, who, during such time as he shall perform the duties of the suspended officer, shall be entitled to the salary and emoluments of the office, no part of which shall belong to the officer suspended.

Opinions of Attorneys-General, v. 13, p. 221.

Op. cit. v. 13, p. 300.

265. The person suspended is held to be still the incumbent of the office, and the interruption of the performance of his duties is temporary and provisional. He is not displaced until the entrance of his successor upon the duties of the office.

266. A Diplomatic Officer, upon whom are conferred the judicial powers prescribed in sections 4083 to 4130 of the Revised Statutes, is not deemed by the Department of State to be a judge of a court of the United States within the meaning of section 1768, but may be suspended in like manner as any other Diplomatic Officer.

267. The statute further provides that a successor to the suspended officer shall be nominated to the Senate during its next session succeeding the suspension; and if the nomination in place of the suspended officer be rejected, the President may still make other nomination during the same session. In case such session of the Senate shall adjourn without acting upon the nomination before it, it is held that the failure of the Senate to confirm such nomination operates to restore the suspended officer; yet it is held also that the latter may again be suspended by the President for any causes which in his judgment are sufficient, without regard to the time when such causes began to exist.

268. The duties and salary of a suspended officer at his post cease when the person designated to temporarily perform his duties shall enter thereon.

269. The suspension of a Diplomatic Officer may occur while he is absent from his post on leave, in which case the suspension takes effect, and the right to receive salary while on leave, within the prescribed limit of sixty days, ceases on the Officer being notified of his suspension.

270. A suspended officer will be allowed the prescribed time for transit in returning to the United States, during which he may receive compensation at the rate provided for the office from which he is suspended; but such transit allowance will not be made if the President's warrant of suspension state that the incumbent is suspended for malfeasance in office.

271. If the Senate fail to confirm the appointment of a successor to an Officer suspended, and he be not again suspended, the salary to which this removal of the suspension entitles him will be held to recommence on the day of setting out for his post, and he will receive transit allowance for return thither in like manner as a new appointee; but no instruction period can be allowed him.

272. The recall of a Diplomatic Officer for malfeasance in office is effected during a session of the Senate, in like manner as a simple recall, by sending to that body the nomination of his successor. It becomes effective in like manner upon the arrival of his successor; unless, upon the confirmation of a successor by the Senate, the President shall direct the recalled Officer to quit his post forthwith, in which case his right to compensation ceases on the receipt by him of the notification of recall.

273. An Officer is held to resign for malfeasance in office when specific charges are laid against him and he offers his resignation without attempting to meet the charges, or after having responded to the charges unsatisfactorily. In like manner he is held to resign under charge of malfeasance if his resignation be tendered during the progress of an investigation duly ordered, or before such investigation shall have established his innocence of the charges, or after his guilt thereof shall have been established.

274. In the same way he is held to resign for malfeasance if he tender his resignation knowing that charges of malfeasance have been preferred against him, or an investigation of his conduct has been duly ordered, and with intent to escape or evade the consequences of such charges or investigation.

Diplomatic Agent not a judge of a United States court.

Revised Statutes, sec. 1768.
Nomination of successor.

Failure to confirm successor.
Opinions of Attorneys-General, v. 13, p. 300; xv, pp. 62, 376.

When salary ceases under suspension.

Suspension while absent from post.
When effective.
Transit of suspended officer homeward.

Resumption of duties of a suspended Officer.

Recall for malfeasance.

When effective.

When held to resign for malfeasance.

Compensation
ceases with resig-
nation.

No transit al-
lowed.
Revised Stat-
utes, sec. 1740.

Office not abol-
ished thereby.

Officer may serve
without pay.

Transit home-
ward.

Transfer to an-
other post.

Official status of
incumbent not
necessarily termi-
nated.

Each case to be
decided by itself.

Compensation
ceases with death

Allowance to
widows.
Revised Stat-
utes, sec. 1749.

Funeral expen-
ses not paid by the
United States.

275. An Officer resigning under charge of malfeasance or in anticipation of recall therefor, loses the right to compensation from the date of his resignation.

276. In either case, an Officer so recalled or resigning for any malfeasance in office will not be allowed compensation for the time occupied in the transit from his post to his residence in the United States.

277. The failure of Congress to make appropriation for the support of a Diplomatic Officer is not held to be an abolition of the office itself. Although the right to receive the salary attached to the office ceases with the expiration of the term for which the previous appropriation was made, an Officer may, if he accepts the arrangement, be directed by the President to remain at his post and discharge its duties, without any claim to compensation unless Congress shall at any time so provide. No compensation in lieu of salary can be made to a Diplomatic Officer under such circumstances from any other item of appropriation.

278. An Officer quitting his post, under orders, on the failure of Congress to make provision for his office, and returning to his home in the United States, will be allowed compensation at the rate of the salary formerly attached to the office during his homeward transit, within the prescribed limits of the authorized schedule of transit time in section 11.

279. If he be transferred by regular appointment to another post for which Congress has made provision, he will be allowed compensation during transit to his new post at the rate of the salary attached to the latter, under the general provisions relating to transferred Officers.

280. The suspension of Diplomatic relations, although it implies the withdrawal of the Mission and the cessation of the Diplomatic Agent's functions as toward the Government to which he is accredited, does not necessarily involve the termination of his office so far as his own Government is concerned. He may be deemed to retain his office, at the pleasure of the President.

281. No fixed rule, however, can be laid down to meet the possible phases of the contingency; and the President consequently reserves the determination of the Diplomatic Agent's tenure of office in accordance with the circumstances of the case.

282. When a Diplomatic Agent dies while holding office his salary or compensation ceases on the day of his death.

283. The statute provides that whenever a Diplomatic or Consular Officer of the United States dies in a foreign country in the discharge of his duty, there shall be paid to his widow, or, if no widow survive him, then to his heirs-at-law, a sum of money equal to the allowance now made to such Officers for the time necessarily occupied in making the transit from the Officer's post of duty to his residence in the United States.

284. There is no authority of law for incurring expense for the funeral obsequies of a Diplomatic Agent dying at his post, or for any compensation, reimbursement, or allowance whatever to his representatives except as provided in the preceding section; unless Congress should make specific appropriation in the case. The act of February 26, 1883, makes, however, provision for transporting the remains of Ministers and Consuls of the United States to their homes for interment, where such officers have died or may die abroad while in the discharge of their duties.

Article XXIV.—Retirement from the Mission and Return to the United States.

285. In case a Diplomatic Officer is relieved, or his mission is terminated before the end of the quarter for which he may have drawn on account of the amount allowed to his Legation for contingent expenses and rent, he will turn over any unexpended balance remaining in his hands to his successor or to the person left in charge of the Legation. In the event of the Mission itself being closed or suspended for any cause during a current quarter, such amount should be returned to the Bankers in London if the Diplomatic Officer is authorized to draw upon them; otherwise, to the Department of State.

Unexpended balances to be turned over.

To whom turned over.

286. A retiring Diplomatic Representative has no authority to install a Consular Officer in charge of a Legation unless expressly authorized by the President so to do; nor can the Consular Officer receive the pay provided by law for a Chargé d'Affaires unless he be especially accredited in that capacity. It is not unusual, however, for a Consular Officer to be temporarily charged with the custody of the archives and property of a Legation. This circumstance does not invest him with any diplomatic character or functions, and no allowance will be made to him except for the necessary expenses of such custody.

Temporary charge of mission. 5 C. C. Reps., 430.

Revised Statutes, sec. 1738.

287. A Diplomatic Officer, on quitting his Mission, should carefully conform to all the customary formalities.

Farewell visits.

288. The official duties of a retiring Diplomatic Agent, and also the regular salary to which he is entitled while at his post of duty, cease on the day of presentation of his letter of recall to the Chief of the State, or in the case of a commissioned Chargé d'Affaires, to the Minister for Foreign Affairs. If for any reason he should not be able to present his letter of recall in formal audience of leave-taking, his duties and salary cease on his taking his departure from the seat of the Mission, unless sooner relieved by his successor.

When official duties cease.

289. The conditions of transit of a retiring Diplomatic Officer, from his post to his home in the United States, are the same as prescribed for the transit of an outgoing Officer, and the schedule of allotted time within which such transit may be made with salary is the same as hereinbefore given, with addition of the time required for the journey, by the shortest and most direct mode of conveyance, from Washington to the Officer's residence in the United States. Salary for the period covered by the homeward transit of an Officer returning from his post in good standing is not paid unless the journey be actually performed within a reasonable period after the close of his service abroad.

Transit. General provisions applicable.

Supplement to Revised Statutes, vol. I, p. 35.

Homeward transit to be effected in one year.

290. The account therefor is presented and adjusted in the United States, and upon being audited and found correct is paid at the Department of State, thus closing the Officer's accounts connected with the Mission from which he retires. If any balance, on such final adjustment, be found due from the retiring Officer to the Government of the United States, it will be offset against the compensation due him for the time occupied by the homeward transit.

Homeward transit adjusted in the United States.

Final settlement of accounts.

291. Diplomatic Agents returning home at the expiration of their service abroad have no special authority of law to introduce their personal effects free of duty and without examination. It is customary, however, for the Secretary of the Treasury, on due application being made by the returning Officer, through the Secretary of State, to grant

Free entry of effects of returning Agent.

the admission of the household effects and personal property in use by the Agent during his official residence abroad.

In applying for such privilege, the Agent should state the name of the vessel in which his effects are to arrive.

Free entry not granted when returning on leave. It is not customary to ask or grant such privilege to Diplomatic Agents who merely come to the United States on transient leave.

APPENDICES.

FORMS TO BE EMPLOYED IN THE TRANSACTION OF THE BUSINESS OF
DIPLOMATIC AGENTS.

FORM No. 1.

Form of oath of allegiance.

I, ——— ———, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, whether domestic or foreign; and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State, Convention, or Legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatsoever; and further, that I will well and faithfully perform all the duties which may be required of me by law: So help me God.

————— .

Sworn to before me this — day of ———, 18—.

————— .

FORM NO. 2.

[First page of dispatch.]

*No. 136.**Legation of the United States,**....., November 12, 1873.**Mr. John Dee to the Secretary of State.**Subject:**Loss of the ship "Wave" owing to a failure to obtain a pilot.**Synopsis:*

Inclosing reply of Minister for Foreign Affairs, stating that captain did little to save the vessel, that he was hospitably received, and that the health officer was not in fault. Mr. Dee thinks, if further investigation is deemed necessary, counsel should be employed. Will await instructions.

[Third page of dispatch.]

No. 136.

Legation of the United States,
 -----, November 12, 1873.

To the Honorable -----,

Secretary of State,

Washington, D. C.

Sir:

$\frac{1}{136}$

I have the honor to inclose herewith a copy of the reply of the Minister of Foreign Affairs to a note respecting the loss of the ship "Wave" at -----; I also append a translation

$\frac{2}{136}$

$\frac{3}{136}$

of the same, and a copy of a dispatch from the consul at that place on the same subject.

The reply of the Minister, it will be observed, takes no notice of the evidence submitted on the part of Captain Blank, nor does it detail that upon the other side, upon which the conclusions of the Ministry of the Interior are founded.

So far as the conduct of the health officers is concerned, it seems highly probable that the difficulty arose from a misunderstanding between them and Captain Blank. It certainly appears singular that there should be no person in the service of the health officer capable of speaking a language commercially so important as English.

I had expected a somewhat different reply, having been led by the consul's letter of November 2 to suppose the health

officer's action in the case had been disapproved by the local authorities. It is evident that the consul was misinformed on that point.

If further investigation is deemed necessary, I think it should be through counsel. This would be a very expensive proceeding, and I do not think myself authorized to resort to it without special instructions to that effect.

I have the honor to be, sir,

Your obedient servant,

John Doe.

LIST OF INCLOSURES.

1. Count to Mr. Doe, *November 11, 1873.
2. Translation of the above.
3. Consul Roe to Mr. Doe, November 2, 1873.

* It is not deemed necessary in this instruction to print the note in the original language. It is expected, however, that Diplomatic Agents will in all cases send to the Department a copy of the original as well as the translation.

[INCLOSURE 2 IN NO. 136.—TRANSLATION.]

Count to Mr. Doe.

Ministry of Foreign Affairs,

..., November 11, 1873.

Sir:

The Minister of the Interior, to whom I hastened to communicate the document that you favored me with in your note of the 11th of September, has caused an investigation to be made into the charges brought by Captain Blank, of the brig "Wave," against the health officer of the port

It results from this that all the crew of said vessel were admitted in free pratique on their landing, and every necessary assistance was lent them by the Commissioner. The Captain and his family were received in the Commissioner's house, and afterward passed the night in that of the Captain of the Sanitary Guard; it is this act of charity that Captain Blank has endeavored to denounce as a detention imposed upon him. He was always left free to go to the city or to the ship. This liberty was made use of by the sailors, who went on board the ship the same evening in order to take away their effects. It appears, besides, that Captain Blank showed little inclination to do anything, and only on the following morning commenced to interest himself in saving the ship and cargo.

From this it is conclusive that no fault can be found with the health officer, there being no ground for anything charged against him by Captain Blank.

In communicating the result of this investigation, in reply to your note on the subject, I have the honor to renew to you, Mr. Minister, the assurance of my high consideration.

(Signature.)

His Excellency

John Doe,

C. C. and M. P. of the United States.

[INCLOSURE 3 IN NO. 136.]

*Mr. Roe to Mr. Doe.**United States Consulate,**....., November 2, 1873.**Sir:*

I am in receipt of your dispatch of the 29th ultimo, with its inclosure, relating to the ship "Wave."

Referring to the same, I may say that the crew of the "Wave" were set at liberty after complying with certain formalities at the health office, while the captain was detained, and, as he states, against his will. This to me is the most unaccountable feature of the whole proceeding, with regard to which I have failed to obtain any satisfaction, though I at once addressed a communication to the Prefect and the Captain of the Port, giving a detailed statement of the case.

I understand that the captain of the vessel knew nothing of the release of the crew from the lazaretto until after they were gone, which will probably account for his having failed to send a message by one of their number to the Consul or the Captain of the Port. One of the seamen, as already stated, spoke a little French, but after he left, the captain, in the absence of an interpreter, to which he was entitled, was unable to communicate with any one. I am not surprised that the statements as to time are somewhat vague, considering the circumstances. With regard, however, to the time when the Captain of the Port

arrived at the scene of the disaster, he himself informed me that it was about 11 o'clock, the delay being occasioned by the fact that it was necessary to wait until one of the steam-tugs should get up steam.

I learn from the Captain of the Port that the investigation of the case has been concluded and a copy of the proceedings sent to the Minister of Marine. I also understand that, while it severely censures the conduct of the health officer, it also attaches some blame to the captain of the vessel, on the ground that he declined the services of some boatmen who offered to move his vessel for the sum of three pounds sterling. I may state on behalf of the captain that this was before he realized that his vessel was in danger, and while he was waiting for a pilot and tugboat.

The agent of the insurance companies informed me that he has reported the case to the underwriters and referred them to my official report to the Secretary of State, but that up to the present time he has received no instructions as to what course he is to pursue.

I have the honor to remain, sir,

Your obedient servant,

Richard Roe,

U. S. Consul.

To the Hon. John Doe,

E. C. and M. P. of U. S., at

FORM No. 4.

Form for authentication of signatures.

UNITED STATES LEGATION,

_____, 188—.

I, _____, Secretary of Legation of the United States at _____, do hereby certify that the signature of _____, at the foot of the paper hereto annexed, is his true and genuine signature, made and acknowledged in my presence, and that the said _____ is personally known to me.

In witness whereof I have hereunto set my hand and affixed the seal of the Legation at _____, this day and year next above written, and of the Independence of the United States the _____.

[SEAL.]

_____,
U. S. Secretary of Legation.

FORM No. 6.

Exchange voucher.

Date of draft.	Face of draft.	Proceeds of draft in foreign currency.	Rate of exchange.	Loss on draft.	On whom drawn and on what account.
July 1, 1879.....	\$1,875 00	£277.11.7	.02	\$37 50	Secretary of Treasury, $\frac{9}{10}$ salary.

LISBON, July 1, 1879.

We jointly certify that the above-described draft was sold and purchased at the rate given in the above abstract.

_____, U. S. Minister.
_____, Bankers.

FORM No. 7.

Form of a Minister's account for compensation while receiving instructions.

GOVERNMENT OF THE UNITED STATES,

To _____,

Minister of the United States at _____,

DR.

For compensation for the period, namely, _____ days, from _____ to _____, actually and necessarily occupied in receiving instructions \$ _____

_____,
U. S. Minister.

To Hon. _____,
Secretary of State.

FORM No. 8.

Account for compensation while making the transit to post of duty.

GOVERNMENT OF THE UNITED STATES,

To _____,

Minister of the United States at _____,

DR.

For compensation for the period, namely, _____ days, from _____ to _____, actually and necessarily occupied in making the transit between my place of residence at _____ and my post of duty _____, as per certificate hereunto annexed \$ _____

CR.

By my draft on \$ _____

_____,
U. S. Minister.

FORM No. 9.

Usual Form of Draft.

LEGATION OF THE UNITED STATES OF AMERICA AT ———,
————, 188—.

\$

Fifteen days after sight (acceptance waived) of this my first of exchange (second and third of the same tenor and date unpaid), pay _____, or order, _____¹⁰⁰ dollars, on account of _____, for the quarter ending _____, as per advice.
_____, *U. S. Minister.*

Hon. — — — — —,
Secretary of — — — — —, Washington.

FORM No. 13.

Second Form of Draft.

— OF THE UNITED STATES,
—, 188—.

§

Fifteen days after sight of this first of exchange (acceptance waived, and indorsements by procuration excepted), second and third unpaid, pay to the order of _____, _____ dollars, and charge the same to my account for _____.

_____, *U. S. Minister.*

To the Hon. _____,
Secretary of _____, Washington, D. C.

FORM No. 14.

Abstract of the names and description of persons to whom passports have been issued or visaed at the ——— of the United States at ———, from ——— — to ——— —, inclusive.

[illegible]

_____, U. S. Consul.

NOTE.—This return to be made June 30 and December 31 of each year to the Department of State. If the individual is a native citizen of the United States, the abstract should give his place of birth; if naturalized, the date of naturalization; the place where and the name of the court by which a certificate of naturalization was granted should be stated.

When husband, wife, and minor children expect to travel together, a single passport for the whole will suffice. For any other person in the party a separate passport will be required.

FORM No. 15.
Passport book.

No.	Date.	Name.	Last residence.	Place of birth.	Profession.	Evidence upon which the passport is granted.	Place for which a visa is given.	Description.	Signature of the person to whom the passport is granted.	Remarks.
								Age, Stature, Forehead, Eyes, Nose, Mouth, Chin, Hair, Complexion.		

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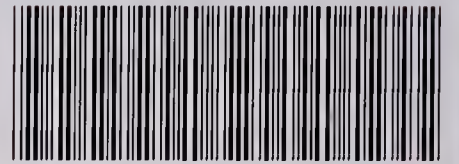
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